

Suite 300-B
2480 W. 26th Avenue
Denver, Colorado 80211
Phone 303-458-8000

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Regional
BACKGROUND PAPER

from the Rocky Mountain States





Federation of Rocky Mountain States, Inc.

The Federation of Rocky Mountain States, Inc., is a private non-profit corporation that includes state government officials and representatives of education and leading business enterprises within the Rocky Mountain region. Members meet in councils to determine multi-state issues, including those related to transportation, market development, housing, arts, human resources, natural resources and telecommunications. Councils develop policies and programs for consideration and approval by the board of directors, led by the governors of the Rocky Mountain states.

Land-Use Planning in the
Rocky Mountain Region

Background and Status

July 1976

This is a Regional Background Paper from the Federation of Rocky Mountain States, directed by the governors of Colorado, Montana, New Mexico, Utah and Wyoming.

This Regional Background Paper describes recent improvements in the planning process throughout the region, as well as challenges to effective planning, particularly in areas experiencing rapid growth because of energy resource development.

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Land-Use Planning in the
Rocky Mountain Region

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A. SOCIO-ECONOMIC, ENVIRONMENTAL & POLITICAL CLIMATE

The States' Economies. The economies of most of the region's states have been dependent on tourism and recreation, resource recovery, farming and ranching. The smaller communities, particularly in energy development areas, have generally served as widely separated service centers for relatively large hinterlands. (There are some notable exceptions, such as west and north of Bismarck, North Dakota, where the service centers are relatively close together.)

Two-thirds of the communities now expecting substantial effects from rapid energy development have populations of under 2,000 persons.¹ Most of these areas have been marked by steady population declines for decades. Population growth in the region's states has occurred primarily in or around urban centers of more than 20,000 persons.²

The People. The region's rural population has a lower income and less education, generally, than its urban neighbors. Employment levels, too, are lower in rural areas, so the people are often receptive to new development and job opportunities.³ The region's rural citizens are proud of their independence and ability to meet challenges. They have long desired to control their own land without governmental restrictions. They are often suspicious of professional planners, who are perceived as telling them how to manage their land. Protection of private property rights is a paramount concern of many rural land owners.

A Fragile Environment. The region's climate varies from arid to semi-arid. Soils are generally shallow. New development competes for limited water resources and desirable lands, and may threaten the broad natural vistas that provide the region's beauty.

Environmental protection is a major regional issue. Regional growth is seen as a threat to the environment as well as to agriculture and tourism -- basic elements of the region's economy. A regional coalition has been created, composed of urban/university environmentalists and ranchers and farmers. The groups become less cohesive, however, when they are considering the use of governmental powers to control land use on private property.

¹ Fitch, Russell W., "Socioeconomic Impacts and Federal Assistance in Energy Development Impacted Communities in Federal Region VIII," A Memorandum to Raymond D. McKenney, Acting Staff Director, Mountain Plains Federal Regional Council, July 25, 1975.

² 1970 U.S. Census.

³ Hines, Fred K., David L. Brown, and John M. Zimmer, Social and Economic Characteristics of the Population in Metro and Nonmetro Counties, 1970, Economic Research Service, U.S. Department of Agriculture, Washington, D.C., March 1975.

Land Ownership. Federal and Indian Nation ownership of lands in the region is prevalent. Much of the region's land is therefore removed from local or state controls. In addition, the area left for private taxable uses is greatly reduced, resulting in a per capita tax paid to state and local governments that is seven per cent higher than the national average.⁴

LAND OWNERSHIP SUMMARY⁵

STATE	FEDERAL		STATE		PRIVATE		INDIAN	
	Acreage	% of State or Area	Acreage	% of State or Area	Acreage	% of State or Area	Acreage	% of State or Area
ARIZONA	31,922,412	43.9	9,617,817	13.1	11,465,195	15.6	19,650,402	26.7
COLORADO	23,941,468	36.0	NA	NA	NA	NA	NA	NA
IDAHO	33,766,220	63.7	2,549,591	4.7	NA	NA	NA	NA
MONTANA	27,651,618	29.6	NA	NA	NA	NA	NA	NA
NEVADA	60,788,769	86.5	105,000 ¹	.1	8,847,000	12.4	79,000	.1
NEW MEXICO	25,919,654	33.3	9,237,118	11.8	35,601,752	45.5	7,323,023	9.2
UTAH	34,858,073	66.1	3,583,393	6.8	102,044,876	20.7	2,055,181+	3.9
WYOMING	29,984,501	48.0	NA	NA	NA	NA	NA	NA
REGIONAL TOTAL	268,832,715	48.6	NA	NA	NA	NA	NA	NA
U.S. TOTAL ²	763,000,000	33.7	134,000,000	5.9	1,317,000,000	58.2	50,000,000 ³	2.2
REGIONAL % OF U.S.	35.2%	NA	NA	NA	NA	NA	NA	NA

NA — Not Available or applicable.

¹ Highways, railways not included.

² Statistical Abstract of the U.S., 1974.

³ Trust land only.

SOURCE: Public Land Statistics—1973, U.S. Department of the Interior, BLM.

⁴ The Rocky Mountain Region: A Unity of Interests, Federation of Rocky Mountain States, Inc., Denver, Colorado, October 1975.

⁵ Ibid.

Delegated Land-Use Authority. States in the region have generally delegated land-use control powers to local governments. In most cases, powers are split equally between incorporated and unincorporated areas. This division of authority sometimes results in conflicts.

Special water and sewer districts or new incorporations are relatively easy to form, because there is seldom any level of existing general purpose government that has sufficient power to prevent such creations. Substate regional agencies, for example, are often without authority -- a situation generally favored by cities and counties, protective of their own authority.

Budgets for local government salaries have traditionally been low when compared with national figures, or those for urban areas. Locally employed trained staff -- public managers, planners and engineers, for example -- are limited in number; in the past there has been little need or revenue for these technical or administrative specialists.

Although a number of area universities and colleges offer a few courses in planning or related fields, only two schools in the region (the University of Colorado and the University of Arizona) offer planning degrees recognized by the American Institute of Planners. As a result, many of the region's planners must be imported, and then acclimated by training about the region's attitudes, laws, traditions and concerns.

B. CHALLENGES TO EFFECTIVE PLANNING

Until recently, there have been few planning services available for the region's energy development areas. Where planning exists today, problems encountered are similar to problems found in planning programs in general.

Planning laws in the states in the past were modeled on the Standard City Planning Enabling Act, and the Standard State Zoning Enabling Act (products of the U.S. Department of Commerce), both of which were developed in the late 1920s. The Acts are permissive, allowing local governments to create comprehensive or master plans, and to adopt zoning as a land-use control mechanism.

New State Laws To Meet the Challenge. During the past decade, and especially during the past three years, most of the Rocky Mountain states have passed additional laws that deal with or affect the planning process. A few states, including Wyoming, North Dakota and Idaho, have made planning mandatory at the local level.

Montana, which passed a new state constitution in 1972, is involved in a three-year study (1975-77) to determine how local governments can become more effective. The three-year study includes analyzing which level of government should be responsible for various aspects of planning and land-use controls.

Utah has developed a series of laws that creates a strong centralized state procedure to coordinate local and statewide planning, and to provide planning help to local governments.

Summaries of each of the eight states' planning structures, and descriptions of significant statewide and land-use laws in the region, are included in an appendix to this Background Paper.

Specific Issues. Following is a list of some of the major issues affecting the planning process within the Rocky Mountain states:

- Many within the region seem not to recognize the need for planning and are unaware of what it is, how it should work, or how to get consistent results from the planning process.
- There is a widespread aversion to permitting any level of government to control private use of land. This skepticism is found among many state, county and city legislators, resulting in political hazards for anyone advocating strong governmental land-use planning.
- Local governmental units -- cities, counties, school districts and special districts -- compete for the same tax dollar, generally operate independently of each other and often make development decisions that cause service or expenditure demands on each other.

Voluntary cooperation among these governmental units usually occurs only when it seems absolutely necessary. The same kinds of "horizontal" overlap of responsibilities and powers exist at the state and federal levels. In 1975, for example, there were 11 separate federal agencies supplying funds to energy-impacted areas, with each agency administering several individual programs. These semi-independent agencies frequently have competing mandates.

Therefore, despite inter-agency agreement, broad and coordinated objectives are difficult to achieve.

- Fragmented and sometimes competing government interests also exist on a "vertical scale" -- among local governments, regional, state and federal agencies.

State and federal agencies often make independent decisions that significantly affect planning at other levels of government. (For example, the Interior Department may approve coal leases affecting state and local government; the Environmental Protection Agency, through the Federal Water Pollution Control Act, may affect local revenue needs; the U.S. Department of Housing and Urban Development and the Department of Transportation have program conflicts -- such as how comprehensive planning and transportation planning relate to each other; state highway priorities may conflict with local needs, and there may be as many as four state agencies concerned with and making decisions about land-use or housing programs.)

Only rarely are state and federal efforts coordinated and integrated with local planning in a single goal-oriented program. Conflicts result when local governments are forced to accept directives from federal or state governments in order to receive funds or technical support.

- The quality, cost and time required for planning decisions all suffer because of the number and kinds of duplicatory and sometimes conflicting regulations issued by the many governmental agencies.

Industry often finds it difficult to meet federal or state demands while not offending local officials. Decision-makers at the local level, as a result of the presence of multiple governments with equal powers, can be tempted to compromise their standards to attract industrial development and new jobs, while industry may choose a new plant location based on permissive zoning requirements.

- Often communities do not have a clear picture of how singular objectives and decisions (i.e. fiscal, management, physical, etc.) relate to and affect comprehensive community goals -- which may themselves be absent.
- In many communities, issues are considered only as they become critical. Decisions are often made on a case-by-case basis, without reference to an overall plan based on specified goals.
- A number of communities have attempted to list goals, but the goals have often been so general and broad that they are difficult to apply in a practical way.
- Rural communities are sometimes most interested in economic development and the promise of new jobs and improved living standards for their citizens, and their leadership may make case-by-case decisions based on those considerations alone.
- Single-purpose, functional planning efforts -- water, sewer, transportation -- may become more significant than the overall planning process because of the availability of specific federal funding for these individual services.
- Planning in the region has often been equated exclusively with zoning and subdivision controls, with development detail sometimes overlooked; i.e., signs, pedestrians, bicyclists, open space, landscaping, aesthetics, environmental pollution or development on hazardous areas.
- Budgets for professional planners in smaller communities or rural counties have been small or non-existent. The use of consultants has brought mixed results because each consultant's work task has often been narrowly defined. In addition, a consultant's relatively short-term involvement with the community is a limitation, especially when no trained local staff is available to carry on the process.
- Planning laws in the states are, on the whole, uncoordinated because most were drafted in response to a particular problem. Many laws lack clear objectives or enforcement powers.
- Legal powers to control development on a regional scale are often inadequate or nonexistent. Especially where more than one source of growth exists, or where development occurs in one government's jurisdiction but impacts another, there are few mechanisms to ensure that all interests

will be considered before development takes place.

- Regional agencies are sometimes feared by existing local governments as threats to their authority. Regional plans, therefore, are frequently combinations of local plans without careful consideration of the cumulative effect on the entire region.
- Lack of authority to "phase" developments is a major handicap, especially because the magnitude and timing of energy developments are difficult to predict. Other kinds of factors can wreck the best projections. There is a need to be able to control events in a logical sequence.
- Strong anti-growth movements have emerged in parts of the Rocky Mountain region. One reason for increasing concern about growth is the readily visible adverse effect of rapid growth without careful comprehensive planning.

C. IMPROVEMENTS IN THE PLANNING PROCESS

Changes are taking place in the planning processes in the Rocky Mountain West that can lead to solutions for many of the challenges now faced in the region. In a sense, rapid growth from the development of rich energy resources has performed a service to the region. When growth occurs slowly citizens are sometimes oblivious to the results; no one incident creates enough excitement to cause changes in the planning process.

The effects of rapid growth, however, are immediate and clearly visible. The problems demand solutions, and an opportunity exists to avoid mistakes made in other parts of the nation.

Needs of energy-impacted towns and counties are similar to those of any community experiencing rapid growth -- whether from recreation, industry, government employment, university growth, or a "New Town" proposal.

General Changes. Throughout the U.S. a quiet revolution is occurring in land-use control and planning.⁶ Both at the state and federal levels there are pressures to change the existing planning system.

States are being encouraged to reclaim controls or powers previously delegated to local governments. Several states, including Hawaii, Vermont, Maine, Florida, New York and Oregon, have reassumed responsibility for making certain planning decisions. Some have passed laws permitting the state to override some local land-use decisions.

⁶ Bosselman, Fred and David Callies, The Quiet Revolution in Land Use Control, prepared for the Council on Environmental Quality, U.S. Government Printing Office, Washington, D.C. 20402, December 15, 1971.

Reilly, William K. (ed.), The Use of Land: A Citizens' Policy Guide to Urban Growth, Thomas Y. Crowell Company, New York, 1973 (sponsored by the Rockefeller Brothers Fund).

Those who argue that states have a strong obligation to make certain planning decisions often make one or more of the following points:

- As a result of population growth with limited planning, people can suffer specific personal hardships and inconveniences.
- Land should be developed as a resource, not as a commodity.
- The land supply is finite, and should be apportioned carefully among the competing demands of a growing population.
- Adverse effects can occur in communities that make certain concessions to attract jobs and industry.
- There is an increasing concern over and knowledge about the quality of the physical environment.

Further, there seem to be more questions about whether state legislators are really responsive to the desires of their constituencies, as evidenced by the increasing use of statewide referendums. For example, in Colorado, a referendum defeated a proposal to bring the Winter Olympics to the state, and another to allow limited underground nuclear explosions. In Utah, a Land Use Act was defeated by referendum.

Changes on the Federal Level. The federal government has recently begun placing more emphasis on coordinated planning among its programs. During the past two sessions of Congress, federal land-use planning bills have been considered.

A few years ago the 701 (planning section of the 1954 Housing Act) program was changed from a product-oriented to a process-oriented program. The intent was to encourage continuous management processes, rather than settling on a static master plan that may be ignored by local government as conditions change.

The Federal Water Pollution Control Act Amendments (PL-92-500, Section 208) require areawide planning as part of a region's water treatment facility system. A key factor of the study and implementation program is a recognition of the influence sewer lines have on the location and timing of growth; this is the first time any nation-wide federal program has included mechanisms to ensure that consideration is given to related impacts resulting from a singular-appearing facility plan. But the programs are still narrow in execution, and they treat the "comprehensive" requirement as a part, rather than the foundation for the entire process.

Changes on the State Level. Until recently, the primary task of state planning and development agencies in the Rocky Mountain region was to encourage economic and industrial development. In addition, they served as information gatherers and analyzers, demographers, drafters of model codes, providers of limited technical assistance, and interveners with federal agencies.

In most states new responsibilities are being identified and new powers are being granted. (See the appendix -- "Summary of Planning Mechanisms in Eight Rocky Mountain States.")

Changes on the Substate Regional Level. Substate regional agencies (Councils of Governments in some cases) generally have not had the authority to implement planning. They have served primarily as central agencies for information gathering, analysis and dissemination, and they have offered limited technical support. Many, if not most, were created largely because of the demands of the federal government for a mechanism to coordinate federal funding for local programs.

The regional agencies' regulatory or implementation powers are limited or nonexistent; their ability to finance themselves from other than voluntary assessments from local governments and federal funding is nonexistent, and they are usually federations with an executive body composed of elected local officials (councilmen and county commissioners).

Changes on the Local Level. There are examples in the Mountain West of successful local planning programs that demonstrate the advantages of coordinating total community effort. Zoning and subdivision controls are being introduced into rural and mountainous areas. Local legislators are moving towards flexible, positive land-use controls as a result of the demands of vocal environmentalists and developers.

Even where local communities are hesitant to begin careful planning processes, federal and state laws are forcing action by withholding funding until planning guidelines are followed.

D. PLANNING ISSUES IN RAPID-GROWTH COMMUNITIES

There are a number of changes that energy development, particularly, brings to communities in the Rocky Mountain West. Many of these changes and issues need to be addressed by the planning process.

Specific Issues Based on Case Studies. Following is a list of problems and challenges faced by communities experiencing rapid growth. The list was compiled using case studies of areas that have felt the impact of substantial population increases in a short time:

- Residents who lived in the community before development will bear much of the initial burden of expanding or replacing facilities to serve new residents.
- When the early flurry of construction is completed, and the workers leave, most communities will be left with excess capacity in their governmental structure.
- Costs for land, building and housing will increase rapidly.
- The mobile home will become the dominant new housing unit as large-scale and mass-produced housing and subdivision development occurs. Development will scatter throughout the area as developers move from place to place to cut housing costs.

- Physical separation of old-timers' and newcomers' neighborhoods will reinforce social separation.
- Existing downtown shopping areas will be threatened by new shopping centers.
- Strip commercial developments will be built along main highways.
- Signs and unattractive building designs will begin to dominate the existing town.
- Environmental pollution will create concern among the residents.
- More parks and recreational facilities will be needed.
- Neighborhood residents in older sections of the town will begin to consider local improvement districts as water and sewer lines, streets, power lines and transfer equipment need upgrading to handle increased demands elsewhere.
- Nearby towns' private commercial interests may suffer as the energy town grows and can support more competition and inventory; i.e., people who formerly shopped in a neighboring town may now choose to shop in their own community.
- If the new and old population is merged and concentrated, opportunities will exist to attract medical, shopping and other services.
- Most communities will be too small, even after development, to support large professional planning staffs.
- The interest in and need for an active community development program will diminish after three or four years in those towns expecting only one development.
- A total re-evaluation of codes, regulations, revenue structures, policies and standards will be necessary but the need for it will not be readily understood.
- There will be a tendency to precede planning with hastily drafted controls, which may not move the community in the desired direction.
- New advisory boards may be created that may overlap or conflict with existing advisory boards.
- There will be a danger of proliferation of limited-purpose, functional governments and authorities (special districts), and possibly new incorporations, each acting as a separate and equal entity.
- Annexation issues will become important as developments initially avoid the requirements of incorporated areas and later seek annexation.
- New planning and land-use controls will be practiced in communities where they did not exist before.

- More technical and administrative expertise than is now available will be needed.
- The organizational structure of local government will change as more staff is added and functions and procedures are better defined.

E. APPENDIX: SUMMARY OF PLANNING MECHANISMS
IN EIGHT ROCKY MOUNTAIN STATES

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EDITOR'S NOTE: This appendix includes only the planning structures and legislation most directly concerned with general land-use planning, development and growth control in the eight states.

It does not include procedures and legislation specifically concerned with energy resources, taxation, special districting, pollution control, bonding capacities, or specific land-use controls, except where these matters may be included in the more general procedures and controls.

Further information concerning the details of more specific procedures and legislation may be requested from the individual state planning agencies.

ARIZONA

NOTE: Parenthetical references are to pertinent sections of the Arizona Revised Statutes (1956), as amended.

A. STATE PLANNING STRUCTURE

- Division of Planning, Office of Economic Planning and Development.

Arizona's Division of Planning, Office of Economic Planning and Development is responsible for economic planning and research and for scientific and technological planning (41-501 et seq.). The Office of Economic Planning and Development serves as the state clearinghouse for A-95 reviews, and as the 701 applicant agency. The executive director of the office serves as chairman of the Arizona State Planning and Coordinating Committee; this committee, composed of chief administrators of 20 state agencies, is responsible for advising the governor concerning federal programs, developing a management system for federal programs, and performing A-95 review functions for state plans involving federal assistance.

- Governor's Commission on Arizona Environment.

The Governor's Commission on Arizona Environment was established in 1975 by executive order of the governor, with members appointed by him. This commission is an information exchange mechanism dealing with the Arizona environment, and is charged with the responsibility of obtaining a cross-section of Arizona citizen opinion about problems of environment and then reporting annually to the governor. This commission has replaced the Environmental Planning Commission, which expired under terms of the legislation establishing the commission on June 30, 1975. The Environmental Planning Commission proposed legislation in 1975 to both houses of the legislature to establish a statewide land-use planning program. The bill failed in both houses.

- State Community Development Council.

The State Community Development Council is a seven-member council that includes the director of the Department of Economic Planning and Development, and also must include an urban planner or urban economist appointed by the governor. The primary function of the Council is to review and act upon applications for General Improvement Districts, which are mechanisms to develop "total communities" outside the jurisdiction of incorporated areas (11-771.20 et seq.).

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Arizona is divided into six substate regions, each containing a Council of Governments. Two are metropolitan districts in the Phoenix and Tucson areas and the other four are non-metropolitan districts. These regional associations coordinate, review, and serve as area clearinghouses for A-95 matters.

C. LOCAL PLANNING STRUCTURE

- Counties.

County Boards of Supervisors are required to form planning/zoning commissions, which prepare and recommend to the governing bodies comprehensive plans within their jurisdictions. Counties are required to adopt zoning and subdivision regulations for the unincorporated areas of the county (11-801 et seq., 11-821 et seq.).

- Cities and Towns.

Municipalities in Arizona are empowered to establish planning agencies and planning/zoning commissions. If such agencies are established, they are required to prepare and adopt comprehensive plans and subdivision regulations. Municipalities are permitted to adopt zoning regulations, which must be consistent with adopted comprehensive plans. Cities and towns have limited extra-territorial jurisdiction for zoning and subdivision matters where the surrounding county has no zoning or subdivision regulations, or where the county has no planning agency. Joint city-county planning agencies are permitted (9-461, 9-462, 9-463 et seq.).

D. PLANNING AND CONTROL LEGISLATION

- General Improvement Districts.

Arizona has not yet adopted statewide planning legislation. But there are provisions for development of new communities or similar large-scale developments requiring public services and facilities -- regulated in the law as General Improvement Districts (11-771.20 et seq.).

County boards of supervisors are empowered to establish the improvement districts with the approval of the State Community Development Council. Districts are permitted to join with other local and state agencies, if necessary and desirable, to provide local public facilities and services.

Applicants for establishment of general improvement districts are required to include in the application a comprehensive plan, including an internal development plan, housing plan, community services and government plan,

economic feasibility report, financial plan, and evidence that the development will be compatible with existing state, regional, or county plans. The application must present plans for a "Total Community."

General improvement districts formed under the law are authorized to provide a wide range of facilities and services: fire protection, recreation, water and sewer, drainage, waste disposal, etc.

General improvement districts are permitted in any unincorporated area with at least 4,000 acres. The law includes provisions and requirements for dissolution of districts, annexation of districts to adjacent municipalities, and/or incorporation of the district area.

- Subdivision Regulations (9-463.01 et seq.).

State law requires municipalities to adopt and enforce subdivision regulations and standards. "Subdivision" is defined as division of land into four or more parcels (in some cases, two or more); there is no stated minimum or maximum parcel size. In regulating subdivisions, cities must give consideration to hazard areas and other adverse conditions, and availability of water to serve the inhabitants.

E. REFERENCES

- Arizona Revised Statutes (1956), as amended.
- Briscoe, Maphis, Murray & Lamont, Inc., Land Use Planning Directory of the 17 Western States, Bureau of Reclamation, U.S. Department of the Interior, April 1976.
- Federation of Rocky Mountain States, Inc., Summary of 1975 Rocky Mountain Land Use and Natural Resource Bills, October 1975.

COLORADO

NOTE: Parenthetical references are to pertinent sections of the Colorado Revised Statutes (1963), as amended.

A. STATE PLANNING STRUCTURE

- Colorado Division of Planning.

The Colorado Division of Planning is part of the state Department of Local Affairs, responsible for coordinating all land-use planning activity in the state; administering the state A-95 clearinghouse and the review of Environmental Impact Statements; implementing the state housing program, and providing technical assistance to the state's 13 regional planning commissions and local governments in the administration of the state's land-use planning program. The Division is the state's 701 applicant agency (106-3-1 et seq.).

- Department of Local Affairs.

The Colorado Department of Local Affairs coordinates local programs with state policies, and provides assistance and funds to local governments and regional agencies.

- Colorado Land Use Commission.

The Colorado Land Use Commission, a nine-member citizens' committee, administers the state's land-use planning program under the Colorado Land Use Act (106-4-1 et seq.).

B. SUBSTATE REGIONAL PLANNING STRUCTURE

The state is divided into 13 planning regions, each of which contains a regional planning commission or a council of governments. The regional commissions each prepare a regional master plan showing the general location of public utilities, community centers, town sites, etc. This plan is advisory only unless adopted by local planning commissions. Regional commissions have broad general authority to appoint staff, accept grants, etc. However, regional planning commissions do not have a specific role in designating areas of statewide interest (see Part D, below).

C. LOCAL PLANNING STRUCTURE

- Counties.

All counties in Colorado are required to have a county planning commission; in counties of 15,000 persons or less, the Board of County Commissioners may constitute the planning commission, or a separate body may be appointed. County planning commissions have the authority to plan for all the unincorporated areas of the county, to adopt and enforce subdivision regulations, and to adopt zoning regulations (106-2-1 et seq., 106-2-34).

- Cities and Towns.

Municipal governments have broad powers under state enabling legislation to undertake planning and zoning, to regulate subdivisions, and to establish planning commissions. City planning commissions are required to adopt a master plan. Zoning regulations are required to conform to the plan (134-59-1 et seq., 139-60-1 et seq.).

D. PLANNING AND CONTROL LEGISLATION

Significant Colorado state legislation affecting land use and the environment includes:

- Local Government Land-Use Control Enabling Act (106-8-101 et seq., 106-2-20).

The Local Government Land-Use Control Enabling Act enables, but does not require, counties and municipalities to:

- 1.) Plan for and regulate the use of land in hazardous areas, wildlife habitats, and areas of historical and archaeological importance.
- 2.) Plan for public lands with regard to establishment of roads.
- 3.) Plan for and regulate the use of land in relation to significant changes in population density, phased development of services and facilities, impact on the community and surrounding areas, and planned and orderly use of land and protection of the environment.

- Areas and Activities of State Interest (106-7-101 et seq., 106-7-201 et seq., 106-7-301 et seq., 106-7-401 et seq., 106-7-501 et seq., 106-3-9, 106-4-3, 106-4-5).

The Areas and Activities of State Interest Act (usually referred to as H.B. 1041) establishes that certain areas and activities are of

"state interest" when so designated by local governments, which are given the authority to administer areas and activities of state interest according to guidelines consistent with the criteria stated in the legislation.

Areas of state interest which a local government may designate include:

- 1.) Mineral resource areas.
- 2.) Natural hazard areas.
- 3.) Areas containing, or having significant impact on, historical, natural, or archaeological resources of statewide importance.
- 4.) Areas around key facilities (transportation, public utility facilities).

Activities of state interest that a locality may designate include:

- 1.) Site selection for transportation and transit facilities.
- 2.) Site selection and development of new communities.
- 3.) Site selection, development or construction of solid waste disposal sites, and major new water and sewage treatment systems.

Criteria for matters of state interest generally involve the minimization of danger to public health and safety and to property, consistency with adopted master plans, prevention of environmental disruption, and orderly provision of governmental services.

State authority under the act is divided between the Department of Local Affairs, which is to perform planning functions, and the Colorado Land Use Commission, which is to perform enforcement functions. The Commission reviews all designations, and may request reconsideration by local governments, or, if the Commission finds local decisions to be unreasonable, take the local officials to court.

● Subdivision Regulation (106-2-33 et seq.).

Counties are required by state law to adopt and enforce subdivision regulations for all unincorporated areas within the county. Subdivision regulations generally apply to any division of land into parcels of less than 35 acres each, including land for condominium or multiple dwelling use.

State law prescribes the information and data that must be submitted by a subdivider with a request for plat approval, and forbids county approval of a subdivision unless satisfactory evidence is provided to assure adequate water supply and sewage treatment facilities.

E. REFERENCES

- Colorado Revised Statutes, 1963, as amended.
- Kurtz, Maxine, and Tessa Dorsey, The Law of Planning and Land Use Regulation in Colorado, Second Edition, Colorado Chapter, American Institute of Planners, Denver, Colorado, October 1972.

IDAHO

NOTE: Parenthetical references are to pertinent sections of the Idaho Code, as amended.

A. STATE PLANNING STRUCTURE

● Bureau of Planning and Community Affairs.

This is part of Idaho's Division of Budget, Policy Planning and Coordination in the Office of the Governor. The responsibilities of the agency include preparing a statewide comprehensive plan; coordinating local, state and federal planning activities; providing technical assistance to local and state planning agencies, and serving as an information clearinghouse. The Division of Budget, Policy Planning and Coordination is the central agency in the state for federal assistance management, including 701 applicant and A-95 review functions. (67-1910 et seq.)

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Idaho is divided into six substate regions, each of which contains a multi-county council of governments or similar association. The substate regions were established by Executive Order of the governor, and organized under the Joint Action by Public Agencies law. They do not have the same powers granted to city, county, and "regional" governments under the 1975 Local Planning Act. These multi-county regional councils are areawide A-95 review clearinghouses. The regional councils serve only in an advisory capacity to local governments; there is no legal requirement that the regional agencies review local plans.

C. LOCAL PLANNING STRUCTURE

● Counties, Cities and Towns.

Counties, cities and towns have similar, and in some cases, identical powers and duties under Idaho law. Local governing bodies must adopt

and implement comprehensive planning processes, comprehensive plans, and zoning and subdivision regulations. Joint city-county planning agencies and commissions are permitted. Existing local regulations and plans not now complying with the requirements of the state law must be amended to comply not later than January 1, 1978. (67-6501 et seq.)

D. PLANNING AND CONTROL LEGISLATION

The most significant Idaho state legislation relative to land-use planning is:

- Local Planning Act of 1975 (67-6501 et seq.).

This law replaces all previously enacted enabling legislation concerning local planning and zoning. The purpose of the act is to ensure that adequate public facilities and services are provided at reasonable cost; to ensure protection and enhancement of important environmental features; to encourage urban development within incorporated cities; to avoid air and water pollution; to protect the state's resources, and to protect life and property in natural hazard areas.

The act requires compliance by all cities and counties in the state and requires that local governments adopt and implement comprehensive plans that include components concerning population, economic development, land use, hazard areas, community design, transportation, recreation, and others, as well as the financial and other means of implementation of the plan.

In addition, municipalities are required to adopt (by January 1, 1977) a map identifying areas of city impact in unincorporated areas. The ordinance identifying these areas must provide for application of either city or county plans, zoning and subdivision regulations to the area, or for application of mutually agreed-upon plans and regulations to the area. In defining areas of city impact, the following factors must be considered: trade area, geographic factors, and areas that can be reasonably expected to annex to the city in the future. Negotiation procedures, including court action, are provided for; remedies for non-compliance are also included.

- Subdivision Requirements (50-1301 et seq., except as noted).

All cities and counties are required to adopt subdivision regulations and standards (67-6513). State law defines "subdivision" as the division of land into five or more lots, with no minimum or maximum acreage specified; agricultural land in use for agricultural purposes is exempt from subdivision requirements when it involves parcels of five or more acres. Local governments may adopt their own definition of "subdivision."

All subdivision plats must be approved by the city or county governing bodies, in addition, plats for subdivisions within one mile of an

incorporated city or town must be approved by the city governing body, as well as the county. Where the one-mile jurisdiction of two cities overlaps, the requirements of the larger city prevail; otherwise, city regulations and requirements prevail over those of a county, unless the differences are mutually resolved.

All subdivision plats must be approved by the state Board of Health for water/sewer facilities, whether public or private systems.

E. REFERENCES

- Idaho Code, as amended.
- Mickelson, Ray, Bureau of Planning and Community Affairs (re: Sub-state Regional Planning Structure).

MONTANA

NOTE: Parenthetical references are to pertinent sections of the Revised Codes of Montana (1947) Annotated, as amended.

A. STATE PLANNING STRUCTURE

- Division of Planning.

The principal agency responsible for Montana's state planning policy is the Division of Planning, part of the Montana Department of Community Affairs. This division develops the state's land-use and housing policies, provides technical assistance to local governments and the substate planning districts, prepares various information systems, and coordinates activities of the state transportation committee and the state water quality planning program. The division is also the 701 applicant agency and A-95 review agency. Preparation of functional plans is not a responsibility of the state agency (82-3705).

- The Department of Natural Resources and Conservation and the Environmental Quality Council.

The Department of Natural Resources and Conservation, and the Environmental Quality Council, are two other state agencies with specific responsibility for administering and enforcing laws which deal directly or indirectly with land use. The Department of Natural Resources and Conservation administers the state's Utility Siting Act; the Environmental Quality Council oversees the review process established by the Montana Environmental Policy Act.

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Montana is divided into 12 substate planning districts, not all of which have organized planning commissions. These districts are to provide a regional perspective and review of local land-use and planning decisions. There is no requirement that the state use the regional commissions in the administration of grant programs to local governments.

C. LOCAL PLANNING STRUCTURE

- Counties.

General zoning and comprehensive planning authority has been granted to Montana counties. Very few of the counties have established planning boards or enacted zoning provisions, because of the state's laws prohibiting counties from enacting zoning ordinances whenever a petition in opposition to zoning is signed by 40 per cent of the county's residents. Planning boards are required to prepare, and governing boards empowered to adopt, master plans for their jurisdictions. If such plans are adopted, they must be used as a guide to decisions regarding land use and public facilities (16-4101 et seq., 16-4701 et seq.).

- Cities and Towns.

Cities and towns are given generally the same powers for zoning and comprehensive planning as those given to counties. Limited extra-territorial zoning powers are also granted to municipalities. Municipalities and counties are prohibited from adopting zoning regulations in the absence of adopted comprehensive plans. Joint city-county planning commissions are authorized (11-3801 et seq.).

D. PLANNING AND CONTROL LEGISLATION

Although Montana has not adopted a statewide land-use control system or land-use policy, the state does have several significant laws:

- Montana Economic Development Act (84-7501 et seq.).

This act provides for substantial property tax incentives for proper land use, and for tax increases for improper land use. Local governments have until 1978 to classify land for agricultural, recreation, open space, industrial, residential and commercial uses within a land-use plan. The classification includes the future uses which the landowner intends for the land. Initial classification is done on the local level, after which the Department of Community Affairs will review the classifications and approve them for final adoption.

Evaluation of the land for tax purposes will then be based upon the adopted classifications.

- Montana Subdivision and Platting Act (11-3859 through 11-38-76).

This act generally applies to all divisions of land into one or more parcels of less than 20 acres. Local governing bodies are required to adopt subdivision regulations that conform to minimum standards, including:

- 1.) A requirement that environmental assessments be made.

- 2.) A requirement that possible social and economic impacts be analyzed.
- 3.) A requirement for dedication of park land or payment of cash in lieu of land.

A 1975 amendment to the act establishes specific "public interest" criteria, which county commissioners must consider, and issue written findings about, before taking action on a subdivision application.

Commissioners cannot approve any subdivision that they deem not to be in the public interest.

The criteria for determining public interest include:

- 1.) The basis of need for the subdivision and expressed public opinion about it.
- 2.) The effects of the subdivision on agriculture, taxes, local services, natural environment, wildlife habitat and public health and safety.

● Major Facility Siting Act (70-801 et seq.).

This act requires the developer of any energy facility, and/or any hydrocarbon conversion facility, to obtain a certificate of environmental compatibility and public need from the Board of Natural Resources and Conservation before the facility can be built. (Oil and gas refineries are excluded.) Factors to be considered during the evaluation of certificate applications and long-range facility plans include:

- 1.) Energy needs.
- 2.) Land use impacts.
- 3.) Water resources impacts.
- 4.) Air quality impacts.
- 5.) Solid waste disposal.
- 6.) Radiation impacts.
- 7.) Noise impacts.

● Montana Environmental Policy Act (69-6501 et seq.).

This act, which applies only to state agencies, declares the state's policy on the environment, establishes a process to review all state agency decisions that may significantly affect the quality of the environment, and establishes the Environmental Quality Council to oversee the process and to report to the legislature and the governor the state activities or programs affected by or affecting the environmental policy.

D. REFERENCES

- Revised Codes of Montana (1947) Annotated, as amended.
- Montana Environmental Information Center, Legislative Analysis 1975.
- (Montana) Environmental Quality Council, Third Annual Report, December 1974.

NEVADA

NOTE: Parenthetical references are to pertinent sections of the Nevada Revised Statutes, as amended.

A. STATE PLANNING STRUCTURE

● Division of State Lands, Department of Conservation and Natural Resources.

The Division of State Lands, Department of Conservation and Natural Resources is the designated state land-use planning agency with primary authority and responsibility for inventorying of land and resources, collecting and maintaining population, economic, environmental and growth data; identifying areas of critical environmental concern (i.e., any area where uncontrolled development could result in irreversible degradation of more than local significance); designating areas of critical environmental concern that are or may be impacted by key facilities; establishing a method to identify large-scale developments, and development and land use of regional benefit, and coordinating all state, federal, and local land-use planning activities.

The agency is also charged with adopting land-use plans, which include allocation of population densities, in areas of critical concern, and ensuring that state and local programs meet criteria for federal grants. The Division is the 701 applicant and A-95 review agency (321.640 et seq.).

(NOTE: Senate Concurrent Resolution No. 36, adopted in 1975, requires the Director of Conservation and Natural Resources to: define the state and local roles in developing the state land-use program; structure the land-use planning process to maximize the role of local governments; develop the state land-use plan in accordance with local plans; resolve conflicts and inadequacies in local plans, and direct state-level work on matters affecting more than one local government, and to provide assistance to local governments.

The stated intent of this Resolution is to restore and reinforce the local planning role.)

● State Planning Coordinator.

The State Planning Coordinator's office is part of the State Public Works Board, authorized to participate in interstate, regional and national

planning projects. The Urban Planning Division of the board provides planning assistance to counties of less than 100,000 population, and serves as a clearinghouse and review agency in subdivision matters (341.010 et seq.).

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Nevada contains five agencies serving as councils of governments or regional planning commissions, including the Tahoe Regional Planning Agency (TRPA), a separate legal entity. Not all Nevada counties are included in these agencies. The Tahoe Regional Agency was created by the Tahoe Regional Planning Compact, an interstate compact with California. The Tahoe Regional Planning Agency has specific powers and limitations defined in the law. Local authority for planning in the area included in the agency's jurisdiction is subordinate to that of the TRPA (278.780 et seq.).

Regional Planning Districts are authorized by state law, and are given the same planning and land-use regulation powers and duties as are allowed or required of city and county governments (Chapter 278.).

C. LOCAL PLANNING STRUCTURE

- Counties, Cities and Towns.

Nevada counties and cities are authorized to plan, adopt zoning regulations, and adopt subdivision regulations. Cities and counties having 15,000 or more persons are required to establish planning commissions; cities and counties with less than 15,000 persons are permitted to establish planning commissions, or the governing body may serve as the planning commission. Local governments are permitted to join in a regional planning agency which may then perform the planning and land-use regulation functions of cities or counties, where such counties and cities do not have planning commissions.

Local governing bodies are required to adopt and implement a master plan. In counties having more than 100,000 persons, the local plan must include a conservation plan and a population plan. The conservation plan must consider, among other things, protection of natural resources and flood control, as well as flood plain zoning if applicable. The population plan is an "estimate of the total population which the natural resources of the city, county, or region will support on a continuing basis without unreasonable impairment."

Zoning regulations adopted by local governments must conform to the master plan, and, in areas where a population plan is required, must also conform to the population plan.

The governor is empowered to impose and administer comprehensive land-use plans and zoning regulations in any area where such plans and regulations were not adopted by July 1, 1975.

D. PLANNING AND CONTROL LEGISLATION

- Planning and Zoning, NRS, Chapter 278.

The most significant legislation affecting land use and development in Nevada is Chapter 278, Planning and Zoning, NRS, involving the planning powers and responsibilities of local governments (discussed in Part C, above).

- Other Legislation.

Other legislation of significance includes:

- 1.) Subdivision of Land (278.320 et seq.).

This legislation requires local governments to adopt subdivision regulations and requires approval of subdivision plats by the planning commission or the governing body. Local approval can only be granted where the approving body finds that the proposed subdivision will not result in air or water pollution, has adequate potable water supply, and conforms to the adopted master plan.

The law also requires approval by the Health Division of the State Department of Health, Welfare and Rehabilitation "concerning sewage disposal, water pollution, water quality, and, subject to confirmation by the state engineer, water quantity."

Subdivision is defined as the division of land into five or more lots of less than 10 acres in counties with more than 200,000 persons, and into five or more lots of less than 40 acres in counties with less than 200,000 persons.

- 2.) Utility Environmental Protection Act (704.820 et seq.).

This act requires Public Service Commission approval of the siting of all new utility facilities, including powerplants and high-voltage lines. The commission must consider environmental impact and make environmental findings.

E. REFERENCES

- Nevada Revised Statutes, as amended.

- Zucker, Jeffrey, "Summary of Land Use Legislation in the State of Nevada," State Land Use Programs, Summaries of Land Use Regulation in Eight States Prepared by the Environmental Quality Committee of the Young Lawyers Section, the American Bar Association, and a 50-State Survey of State Land Use Controls Prepared by "Land Use Planning Reports," printed at the request of Henry M. Jackson, Chairman, Committee on Interior and Insular Affairs, United States Senate, (Committee Print, 93d Congress, 2d Session).

NEW MEXICO

NOTE: Parenthetical references are to pertinent sections of New Mexico Statutes Annotated (1953), as amended. References to Chapter 14 refer to the 1975 Special Supplement, Chapter 14, Municipal Code, NMSA.

A. STATE PLANNING STRUCTURE

- State Planning Office.

This is the agency created by New Mexico's State Planning Act (4-20-1 et seq.) to serve as the governor's staff agency in planning matters, and to function as an advisory, consultative and coordinating agency to other state agencies. The state agency does not have legal authority over the planning powers of state and local agencies. Principal responsibilities are to prepare comprehensive studies of the state's resources and comprehensive statewide resource development plans, with special emphasis on water resources and development; provide technical assistance to local governments; prepare a comprehensive plan for development of the outdoor recreation resources of the state; assist Indian tribal governments with planning functions, and prepare the plan for preservation of cultural properties. The State Planning Office is the agency responsible for A-95 review and 701 applications.

- Natural Resource Conservation Commission.

This is a 12-member commission established under the Natural Resource Conservation Act (45-5-42 et seq.) to replace the former Soil and Water Conservation Commission. Responsibilities of the commission are to provide land-use planning assistance to local and state agencies, with emphasis on "terrain management" (i.e., flood control, drainage, erosion, and adaptation to the existing topography). To facilitate and implement the act, the state is divided into six natural resource conservation districts.

- Other State Agencies.

Other state agencies involved with land-use planning in New Mexico are the State Engineer's Office, the State Forestry Department of the State Land Office, and the Environmental Improvement Agency.

B. SUBSTATE REGIONAL PLANNING STRUCTURE

New Mexico is divided into seven Planning and Development Districts, established by Executive Order, and given planning assistance grants-in-aid (matching funds) under the Planning District Act (15-59 et seq.). Operations of the regional councils of the Planning and Development Districts are solely within the discretion and control of the governing boards.

Terms of the Planning District Act do not change or conflict with the status of prior established regional and metropolitan planning commissions, councils of governments, or economic development districts. The responsibilities and function of regional planning commissions are defined in the Regional Planning Act (see Part D, below).

C. LOCAL PLANNING STRUCTURE

• Counties.

Counties are empowered to create planning commissions, with general powers "necessary and proper to carry out and promote county planning." New Mexico counties have the authority to adopt and enforce zoning and subdivision regulations, but zoning regulations and districts must conform to an adopted comprehensive plan (15-58-1 et seq., 14-20-1 et seq.). Counties are required to adopt subdivision regulations (70-5-9).

• Cities and Towns.

Municipalities are authorized to establish planning commissions, and to adopt zoning regulations consistent with adopted master plans. Cities and towns are required to adopt subdivision regulations and master plans. City planning commissions are granted general powers in order to "promote municipal planning" (14-57-2).

D. PLANNING AND CONTROL LEGISLATION

New Mexico has not adopted statewide functional planning legislation; measures proposed to the 1975 legislature failed. An Environmental Quality Act, passed by the legislature in 1972, was placed under moratorium in 1973 and overthrown in 1974. Similar legislation proposed in 1975 was rejected.

Existing state legislation concerning land use planning include:

• Regional Planning Act (14-57-1 et seq.).

This act authorizes the establishment of New Mexico regional planning commissions and permits cities and counties to merge powers and

functions, or to delegate planning powers and functions to the regional commission.

The act directs regional planning commissions (if formed) to prepare master plans for the region and studies of the region's resources, coordinate regional research activities with government and private agencies, collect and analyze socio-economic data, provide planning assistance to local governments, review regional plans, and review local applications for state and federal aid.

Regional plans and subdivision and platting regulations approved by the regional planning commissions are to be implemented by local members of the regional association. Local governments and special service districts within the jurisdiction of the regional commissions are required to file local proposed plans, zoning ordinances, capital improvement programs, subdivision regulations, and the like with the regional commission for review and comment prior to adoption. Sole power to adopt such proposals lies with the local governments and special districts.

● New Mexico Subdivision Act (70-5-1 et seq.).

This act requires counties to adopt subdivision regulations, which must include requirements for:

- 1.) Adequate water quantity and quality.
- 2.) Liquid and solid waste disposal.
- 3.) Adequate roads.
- 4.) "Terrain management" (i.e., control of floods, drainage and erosion, measures for adapting proposed development to existing soil characteristics and topography).

The act also requires plat approval by county commissioners.

In general, any division of land into five or more lots that are to be sold or leased is subject to provisions of the act. Procedures and requirements for approval and for filing of disclosure statements vary, according to the type of subdivision involved. Types are defined as follows:

- | | |
|--------|--|
| Type 1 | 500 or more parcels, any one of which is less than 10 acres. |
| Type 2 | 25 to 499 parcels, any one of which is less than 10 acres. |
| Type 3 | 5 to 24 parcels, any one of which is less than 10 acres. |
| Type 4 | 25 or more parcels, each of which is more than 10 acres. |
| Type 5 | 5 to 24 parcels, each of which is more than 10 acres. |

- Natural Resource Conservation District Act (45-5-42 through 45-5-64.

This act establishes the Natural Resource Conservation Commission, replacing the former Soil and Water Conservation Commission, and defines the functions of the commission (see Part A, above).

E. REFERENCES

- New Mexico Statutes Annotated (1953), as amended, including the 1975 Special Supplement, Chapter 14, Municipal Code.
- Briscoe, Maphis, Murray & Lamont, Inc., Land Use Planning Directory of the 17 Western States, Bureau of Reclamation, U.S. Department of the Interior, April 1976.
- Federation of Rocky Mountain States, Inc., Summary of 1975 Rocky Mountain Land Use and Natural Resource Bills, October 1975.

UTAH

NOTE: Parenthetical references are to pertinent sections of the Utah Code Annotated (1953), as amended.

A. STATE PLANNING STRUCTURE

- Office of the State Planning Coordinator.

This Utah state office is responsible for performing regional and state planning; coordinating with the federal government, including administration of the A-95 process, and, in cooperation with the Department of Community Affairs, the 701 grant application process; analyzing land-use implications of state actions; coordinating the plans of state agencies and local governments, and providing planning assistance to Indian tribes (63-28-1 et seq.).

The state planning coordinator is a member of a number of interagency coordinating bodies dealing with specific aspects of the state's development: the State Planning Advisory Committee, the Environmental Coordinating Council, the Economic and Physical Development Group, and others.

- Department of Community Affairs.

This agency is responsible for providing technical assistance to local and regional planning and governmental agencies; serving as an information clearinghouse; coordinating state agencies in regard to community development problems and plans, and assisting in strengthening regional government and planning and service units in the state (63-44-1 et seq.).

The primary framework used to coordinate planning and functional operations of state agencies with state growth and development policies is known as "The Utah Process." One element of the process uses "alternative futures models" (the Utah Process Economic and Demographic Model and the Utah Process Land Use and Tax Base Model) to project the impacts of alternative state and local public policies.

Although the primary objective of the Utah Process is to coordinate functional planning among the various state-level agencies, the process also involves providing technical planning assistance to local governments

through Technical Assistance Committees and the Multi-County Districts. Actual planning power and responsibility rests with the local governments.

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Utah is divided into seven Multi-County Districts, each of which contains a Multi-County Association of Governments, established under the terms of the Inter-Local Cooperation Act of 1965 (11-13-1 et seq.). These associations are responsible for area-wide planning and policy reviews, and serve as clearinghouses to review applications for federal funds affecting their specific areas. Technical assistance to the districts is provided by the Department of Community Affairs.

Utah's Multi-County Districts were established by Executive Order, and apparently have the powers and limitations defined by the Inter-Local Cooperation Act, which permits joint exercise of powers by public agencies, and agreements for joint or cooperative action and performance of governmental services and activities.

C. LOCAL PLANNING STRUCTURE

● Counties.

Utah county commissioners are empowered to zone, and to appoint members of planning commissions. County planning commissioners are required to prepare and adopt master plans for unincorporated areas, as well as for incorporated areas when master plans are also adopted by municipal governing bodies (17-27-1 et seq.).

In counties having planning commissions, the county commissioners may also appoint "district" planning commissions upon petition of the landowners in the territory to be included in the district (17-27-17 et seq.). District planning commissions are required to recommend district zoning plans to the county planning commission. County or district planning commissions are required to submit master and zoning plans to the state planning agency for advice and recommendations; however, the state's recommendations are not binding upon the local agencies.

● Cities and Towns.

The Municipal Planning Enabling Act (10-9-19 et seq.) permits municipalities to appoint planning commissions, which are then required to adopt master plans. Cities and towns are also empowered to enact zoning regulations in accordance with an adopted master comprehensive plan, and to approve subdivisions.

D. PLANNING AND CONTROL PROCEDURES

- Land-Use Planning.

Utah does not currently have a statewide land-use planning law. A Land Use Act, adopted by the legislature in 1974, empowered the state to designate and plan for critical environmental areas, and established a State Land Use Commission, but this act was taken to referendum by citizen petition and defeated at the polls.

Therefore, the primary legal authority for land-use planning in the state rests with local and regional associations of governments.

- Subdivision Regulations.

State law defines "subdivision" as a division of land into three or more parcels to be sold or developed, and requires the approval of subdivision plats by local governing bodies (city or county). The law does not require that local governing bodies adopt subdivision regulations. State law concerning subdivisions is general, and does not address environmental concerns (5-7-5-3, 17-27-27).

E. REFERENCES

- (Utah) State Planning Coordinator and the Department of Community Affairs, Intergovernmental Planning Coordination: The Utah Experience, January 1975.
- Utah Code Annotated 1953, as amended.

WYOMING

NOTE: Parenthetical references are to pertinent sections of the Wyoming Statutes (1957), as amended.

A. STATE PLANNING STRUCTURE

- State Planning Coordinator.

Wyoming's State Planning Coordinator, part of the governor's office, coordinates planning activities of all state agencies, departments, boards and commissions to create and implement a comprehensive state plan. All plans prepared by these agencies, etc., are required to be submitted semi-annually for review and comment by the coordinator (9-144.1 et seq.).

- Wyoming Land-Use Commission.

This commission, a nine-member citizens' committee appointed by the governor, is responsible for: carrying out a statewide land-use planning program, including identifying areas of "critical concern"; providing assistance to local governments in planning for and regulating development in such areas; providing technical assistance and information on land-use planning to the state and local governments, and establishing statewide land-use goals and policies (9-852, 9-853).

- Office of Land-Use Administration.

The Wyoming Office of Land-Use Administration, within the governor's office under the provisions of the State Land Use Planning Act, enforces and administers the provisions of the act and carries out policies and guidelines established by the Land Use Commission (9-854 et seq.).

- Planning Division, Wyoming Department of Economic Planning and Development.

This division is responsible for providing staff support and technical assistance to the Land Use Commission; preparing a statewide housing plan; developing state and substate economic models to analyze the impact of alternative growth patterns, and administering the A-95 clearinghouse, 701 grant applications. This division is not required to prepare any functional plans (9-160.19 et seq.).

B. SUBSTATE REGIONAL PLANNING STRUCTURE

Wyoming does not currently have a planning structure at the regional level.

C. LOCAL PLANNING STRUCTURE

- Counties.

Counties are empowered to appoint planning commissions to serve as advisors to Boards of County Commissioners, in whom rests final authority to adopt comprehensive plans and zoning regulations for unincorporated areas. Counties are required by state law to develop countywide land-use plans, which incorporate the land-use plans of all incorporated areas within the county (18-289.1 et seq.).

- Cities and Towns.

Wyoming cities and towns are authorized to set up planning commissions and are required to develop local land-use plans within their jurisdictions. The plans must be consistent with state guidelines, and are subject to review and approval by the Land Use Commission. Municipalities are also empowered to adopt and enforce zoning regulations in accordance with adopted comprehensive plans (15.1-71 et seq.).

D. PLANNING AND CONTROL PROCEDURES

Significant state laws concerning land use and the environment include:

- State Land Use Planning Act (9-849 et seq.).

This act requires the adoption of statewide land-use goals and policies, and the development of a state land-use plan within two and one-half years after adoption of the goals and policies (the plan may be an aggregation of county land-use plans); authorizes assistance to local governments through renewable planning grants; requires local planning, but not local zoning, and authorizes centralized data collection to aid local governments in planning.

The act requires that the Land Use Commission identify those areas in the state determined to be of critical or more than local concern and to establish development guidelines for such areas. "Areas of critical or more than local concern" include:

- 1.) Areas where uncontrolled or incompatible large-scale development could result in damage to the environment, life or property, where the short- or long-term public interest is of more than local significance.

- 2.) Natural hazard areas.
- 3.) Renewable resource areas.
- 4.) New town lands.
- 5.) Such additional areas as the commission deems to be of more than local concern.

- Industrial Development Information and Siting Act (35-502.75 et seq.).

This law applies to energy-related facilities and to other industrial facilities with a construction cost of \$50 million or more. (The cost threshold may be adjusted annually, using recognized construction cost indices).

The act:

- 1.) Requires planning adequate to insure that unacceptable impacts do not occur.
- 2.) Forbids the issuance of permits for construction and operation of facilities without assurance that negative impacts will be alleviated (permits are required for facilities covered by the act).
- 3.) Requires developers of a facility to determine the means by which expansion of public services will be financed.

- Community Development Authority Act (9-826 et seq.).

This act creates the Wyoming Community Development Authority to help local and state agencies finance local public improvements and facilities where the authority finds that an "acute need" for such facilities and improvements exists, and that the need cannot be met through conventional financing sources. Mineral severance tax revenues are permitted to be used to secure bonds issued by the authority.

- Environmental Quality Act (35-502.1 et seq.).

This act creates the State Department of Environmental Quality, consisting of the following divisions: air quality, water quality, and land quality. The director of the department is required to administer and enforce the provisions of the act; to carry out the stated policy of the act; to monitor actual or potential sources of pollution and public water supplies, and to accept and administer grants and other funds received to carry out the act.

It also creates the Environmental Quality Council, required by the act to promulgate necessary rules and regulations, conduct hearings, and to designate areas of the state which are of a unique and irreplaceable historical, archeological, scenic or natural value. In addition to the council, advisory boards for each of the three divisions are created.

Activities subject to the provisions of the act include mining or other mineral extraction operations, construction and operation of sewage facilities, construction and operation of public water facilities, and activities involving the discharge or emission of any air contaminant so as to cause pollution.

- Real Estate Subdivision Act (18-289.10 et seq.).

This act requires a subdivision permit from the Board of County Commissioners before land is subdivided into three or more lots of less than 35 acres. Subdivision plats are required to comply with applicable zoning and land-use regulations, and no subdivision may be approved unless there is satisfactory evidence, certified by a licensed engineer, that adequate provisions have been made for water supply, sewage disposal, and maintenance of streets and roads; or, if such evidence is not provided, notice to the effect that there is no proposed public water or sewer system or road maintenance must be shown on all documents relating to the subdivision.

E. REFERENCES

- Office of the Chief of State Planning, Department of Economic Planning and Development, State of Wyoming, The Legal Basis for Planning and Land Use Control in Wyoming, November 1975 (2nd Edition).
- Hayen, Roger L. and Gary L. Watts, "A Description of Potential Socio-economic Impacts from Energy-related Developments on Campbell County Wyoming," prepared for U.S. Department of the Interior, Office of Minerals Policy Development, September 1975.

F. APPENDIX: STATE AND LAND-USE PROGRAMS & ORGANIZATIONAL
LOCATION OF STATE PLANNING AGENCIES, FIGURES 1 & 2

- State Land-Use Programs, Figure 1. Page 44
- Organizational Location of State
Planning Agencies, Figure 2. Page 46

Figure 1
STATE LAND USE PROGRAMS

STATE	TYPE OF STATE PROGRAM			Coastal Zone Management ⁴	Wetlands Management ⁵	Power Plant Siting ⁶	Surface Mining ⁷	Designation of Critical Areas ⁸	Differential Assessment Laws ⁹	Floodplain Management ¹⁰	Statewide Shorelands Act ¹¹
	Comprehensive Permit System ¹	Coordinated Incremental ²	Mandatory Local Planning ³								
Alabama				X		X	A			X	
Alaska		X		X		X			B		
ARIZONA		X				X			A	X	
Arkansas						X	A,B		A	X	
California		X		X		X	X		C	X	
COLORADO						X	X	X	A	X	
Connecticut		X		X	X	X			B	X	
Delaware		X		X	X				A		X
Florida	X	X	X	X	X	X	A	X	A,C		
Georgia		X		X	X		A,B				
Hawaii	X	X		X		X	X	X	B	X	
IDAHO			X				X		A		
Illinois				X		X	A,B		B	X	
Indiana		X		X			A,B		A	X	
Iowa							A,B		A	X	
Kansas							A,B				
Kentucky						X	A,B		B		
Louisiana				X	X						
Maine	X	X	X (LTD)	X	X	X	A	X	B	X	
Maryland		X		X	X	X	A,B	X	B	X	
Massachusetts				X	X	X			B		
Michigan				X			X		C	X	X
Minnesota		X		X	X	X	X	X	B	X	X
Mississippi				X	X					X	
Missouri					X	X	X		A	X	

(Figure 1 continued on next page)

FIGURE 1 (Contd.)

STATE	TYPE OF STATE PROGRAM			Coastal Zone Management ⁴	Wetlands Management ⁵	Power Plant Siting ⁶	Surface Mining ⁷	Designation of Critical Areas ⁸	Differential Assessment Laws ⁹	Floodplain Management ¹⁰	Statewide Shorelands Act II
	Comprehensive Permit System ¹	Coordinated Incremental ²	Mandatory Local Planning ³								
MONTANA		X	X			X	A,B	X	B	X	X
Nebraska			X			X			B	X	
NEVADA		X	X			X		X	B		
New Hampshire				X	X	X			B,C		
New Jersey				X	X	X			B	X	
NEW MEXICO		X				X	A		A		
New York	X	X		X	X	X	X	X	B	X	
North Carolina		X		X	X		X		B	X	
North Dakota						X	A		A		
Ohio				X		X	A		B		
Oklahoma							X		A	X	
Oregon		X	X	X		X	A	X	B		
Pennsylvania				X	X	X	A	X	B		
Rhode Island		X		X	X	X			B		
South Carolina				X		X	A		B		
South Dakota							A	X	A		
Tennessee						X	A,B				
Texas				X	X		X		B		
UTAH		X					A		B		
Vermont	X	X			X	X	X		C	X	
Virginia			X	X	X		A,B		B		
Washington		X		X	X	X	A		B	X	X
West Virginia							A,B			X	
Wisconsin		X		X	X	X	X	X		X	
WYOMING		X	X			X	A		A		

(Key continued on next page)

FIGURE 1 (Contd.)
KEY

- 1 State has authority to require permits for certain types of development.
- 2 State-established mechanism to coordinate state land-use related problems.
- 3 State requires local governments to establish a mechanism for land-use planning (e.g., zoning, comprehensive plan, planning commission).
- 4 State is participating in the federally funded coastal zone management program authorized by the Coastal Zone Management Act of 1972.
- 5 State has authority to plan or review local plans or the ability to control land use in the wetlands.
- 6 State has authority to determine the siting of power plants and related facilities.
- 7 State has statutory authority to regulate surface mines. (A) State has adopted rules and regulations; (B) State has issued technical guidelines.
- 8 State has established rules, or is in the process of establishing rules, regulations, and guidelines for the identification and designation of areas of critical state concern (e.g., environmentally fragile areas, areas of historical significance).
- 9 State has adopted tax measure which is designed to give property tax relief to owners of agricultural or open space lands. (A) Preferential Assessment Program - Assessments of eligible land is based upon a selected formula, which is usually use-value. (B) Deferred Taxation - Assessments of eligible land is based upon a selected formula, which is usually use-value and provides for a sanction, usually the payment of back taxes, if the land is converted to a non-eligible use. (C) Restrictive Agreements - Eligible land is assessed at its use-value, a requirement that the owner sign a contract, and a sanction, usually the payment of back taxes if the owner violates the terms of the agreement.
- 10 State has legislation authorizing the regulation of floodplains.
- 11 State has legislation authorizing the regulation of shorelands of significant bodies of water.

* SOURCE: Prepared by the Council of State Governments, based on information collected by the Council of State Governments, Land Use Planning Reports 1974 and 1975; and the U.S. Department of the Interior, Office of Land Use and Water Planning; and the Resource Land Investigations Program.

Figure 2

ORGANIZATIONAL LOCATION OF STATE PLANNING AGENCIES*

STATE	Agency Name	Separate Department	Governor's Office	Dept. of Administration	Economic Development	Community Affairs	Other
Alabama	Development Office		X				
Alaska	Division of Policy Development		X				
ARIZONA	Office of Economic Planning and Development				X		
Arkansas	Office of Planning		X				
California	Office of Planning and Research		X				
COLORADO	Division of Planning					X	
Connecticut	Department of Planning and Energy Policy	X					
Delaware	State Planning Office		X				
Florida	Division of State Planning			X			
Georgia	Office of Planning and Budget	X					
Hawaii	Department of Planning and Economic Development				X		
IDAHO	Division of Budget, Policy Planning and Coordination		X				
Illinois	Bureau of the Budget	X					
Indiana	State Planning Service Agency		X				
Iowa	Office of Planning and Programming		X				
Kansas	Division of State Planning and Research			X			
Kentucky	Office of State Planning		X				
Louisiana	State Planning Office		X				
Maine	State Planning Office		X				
Maryland	Department of State Planning	X					
Massachusetts	Office of State Planning		X				
Michigan	Department of Management and Budget			X			
Minnesota	State Planning Agency		X				
Mississippi	None****		X				
Missouri	Division of Budget and Planning			X			

(Figure 2 continued on next page)

Figure 2 (Contd.)

STATE	Agency Name	Separate Department	Governor's Office	Dept. of Administration	Economic Development	Community Affairs	Other
MONTANA	Division of Planning				X		
Nebraska	State Office of Planning and Programming		X				
NEVADA	Office of the State Planning Coordinator		X				
New Hampshire	Office of Comprehensive Planning		X				
New Jersey	Division of State and Regional Planning					X	
NEW MEXICO	State Planning Office		X				
New York	Division of State Planning						X**
North Carolina	Office of State Planning			X			
North Dakota	State Planning Division						X***
Ohio	Department of Economic and Community Development				X		
Oklahoma	Office of Community Affairs and Planning				X		
Oregon	Intergovernmental Relations Division		X				
Pennsylvania	Office of State Planning and Development		X				
Rhode Island	Statewide Planning Program			X			
South Carolina	Office of Community Development			X			
South Dakota	State Planning Bureau		X				
Tennessee	State Planning Office		X				
Texas	Division of Planning Coordination		X				
UTAH	Office of State Planning Coordinator		X				
Vermont	State Planning Office		X				
Virginia	Division of State Planning and Community Affairs					X	
Washington	Office of Program Planning and Fiscal Management		X				
West Virginia	Office of Federal-State Relations		X				
Wisconsin	State Planning Office			X			
WYOMING	State Planning Office		X				

*SOURCE: Prepared by the Council of State Governments, based on a 1975 survey of state 701 planning activities.

**Located in State Department

***Located in Department of Accounts and Purchases

****Mississippi has no single agency designated as the State Planning Agency. Planning Functions are fragmented among several state offices.

G. APPENDIX: BIBLIOGRAPHY

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Principal Authors: William Lamont, Jr., A.I.P., and
Mary B. Jones,
Briscoe, Maphis, Murray & Lamont, Inc.

Editor: James A. Pulver

Acknowledgements: Emmett Haywood
Lorin Hunt
Joe Lontin
Burman Lorensen
Don Rapp
Carl Ellis
Ross Reeves
Virginia A. Valenze
Douglas L. Mutter
Sharon Curran Wescott

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- Vice President and General Manager, Cheyenne Light, Fuel and Power Company, Wyoming
- Hugh Hood
- President, Hood Corporation, New Mexico
- Leonard H. Johnson
- Assistant Director of Natural Resource Activities, American Farm Bureau Federation, Illinois (representing Utah)
- Robert L. Lindauer, Jr.
- Public Affairs Manager, Exxon Company, U.S.A., Colorado
- Patrick E. Melby
- Deputy Director for Planning, Office of Budget and Program Planning, Montana
- Kent Mollohan
- Housing Division Administrator, State Department of Community Affairs, Montana
- Jack R. Ockey
- Associate State Planning Coordinator, Utah
- Ronald P. Richards
- Director, State Department of Community Affairs, Montana
- Phillip H. Schmuck
- Director, Division of Planning, Colorado

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