

## Participation in Local Land Use

Federal agencies in the Greater Yellowstone Area (GYA) have a wealth of information that can be helpful to local governments as they review and decide local land use actions. Local land use decisions can affect the health, diversity and productivity of the Nation's Forests, Grasslands, Parks and Wildlife Refuges. In its 2007 *Open Space Conservation Strategy*, the Forest Service makes it a priority to participate in community growth planning to reduce ecological impacts and wildfire risks. The *Open Space Conservation Strategy* specifies four action items:

- Develop new science-based tools to help communities consider and use landscape-level natural resource information in their planning, as well as visualize and evaluate future options for landscape change.
- Train employees on how to engage in local, regional, and transportation planning in a constructive manner that respects local authority and decision-making.
- In communities adjacent to national forests and grasslands, participate in planning discussions as a stakeholder and provide information on how growth decisions will affect public land resources and public access.
- Continue including local communities in National Forest System planning to help coordinate local land use and national forest plans.

This section provides guidance for public agency participation in local land use planning processes, while respecting local authority and decision making. It discusses the value of public agency participation, types of participation, and an overview of the land planning processes of each of the three GYA states. Included are sample letters written by Forest Service officials to local governments and suggested components to participating in local land use actions.

### Value of Agency Participation in Local Land Use

The knowledge and input of public land managers and resource specialists can be important to helping county officials and local citizens understand how public lands and resources support and influence the overall social, economic, and natural landscape. Public land managers can offer information and technical assistance to county officials, planning staff, neighborhood and watershed groups, and landowners. They can explain the values and pertinent issues of public lands and resources, including:

- Fire and fuels management,
- Wildlife habitat,
- Water quality,
- Transportation and access to public lands, and
- How activities on private lands affect adjoining public lands and public resources.

Early and ongoing participation is most effective. Many of these planning processes have several steps. The earlier information is introduced into the planning process, the most use local government officials can make of it. Opportunities include:

- Development of county comprehensive plans/growth policies which set overall direction,
- Development of zoning and subdivision ordinances, when overall standards and criteria become law, and
- Individual development decisions, typically through the subdivision review process.

Participation can take the form of:

- Written comment and maps,
- Testimony at public hearings,
- Information at public meetings,
- Service on interagency coordinating groups, and
- Service as technical advisor to local planning groups.

## **Overview of State Land Use Planning Laws and County Regulations**

In general, state and local land use planning follows a template of a comprehensive plan, zoning ordinances, and review of individual developments, including subdivisions. While some places may have neighborhood plans, watershed plans or other local plans, this discussion focuses on comprehensive plans, zoning ordinances and subdivisions ordinances.

A comprehensive plan provides an overall vision and goals. It is often not regulatory. The comprehensive plan is legally implemented through ordinances. A zoning ordinance organizes a jurisdiction into districts or zones, and defines what uses are allowed in those zones. Common zones include residential, commercial or industrial. In an example of allowed uses, residential uses might be allowed in residential and commercial zones, but some commercial uses may not be allowed in a residential zone. Each zoning district will also have its own standards for lot size, density, lot coverage, building height, number of stories and setbacks. A subdivision ordinance will define the process to divide land, and include standards for utilities, streets, lot sizes, and a process to record individual lot ownership.

The three GYA States have different laws and requirements for State and local land use regulations and processes. Figure 3.1 summarizes for each state whether a comprehensive plan, zoning ordinances or subdivision ordinances are required. A brief overview of each State's land use laws is provided, including the planning process and participation opportunities for public land managers.

Each county in each state develops its own planning regulations and processes, as prescribed by State laws. Each county's documents will outline the process for providing comment and opportunities for public hearings. The structure of the decision making process varies by location. Typically, county commissions and city councils are the decision making bodies; with planning and/or zoning commissions as a recommending body. In addition, city or county staff handle the day-to-day planning and zoning work.

Given the unique nature of the regulations in each of the 20 GYA counties, public land managers need to review the local regulations. Regulations for most GYA counties are available online. The tables following the discussion for each State provide a brief summary of that State's county planning and zoning documents and available website links to county planning departments in the GYA.

### Source:

Some material in this section from Doris Fischer, former Madison County Montana Planning Department Director.

# Summary of Land Use Requirements in Idaho, Montana and Wyoming

## Idaho

## Montana

## Wyoming

<b>Comprehensive Plan</b> <b>Required</b>	<b>Growth Policy</b> <b>Optional</b>	<b>Comprehensive Plan</b> <b>Required</b>
<b>Local Zoning</b> <b>Required</b>	<b>Local Zoning</b> <b>Optional</b>	<b>Local Zoning</b> <b>Optional</b>
<b>Subdivision Regulation</b> <b>Required</b>	<b>Subdivision Regulation</b> <b>Required</b>	<b>Subdivision Regulation</b> <b>Required</b>

Figure 3.1: Summary of Land Use Requirements in Idaho, Montana and Wyoming

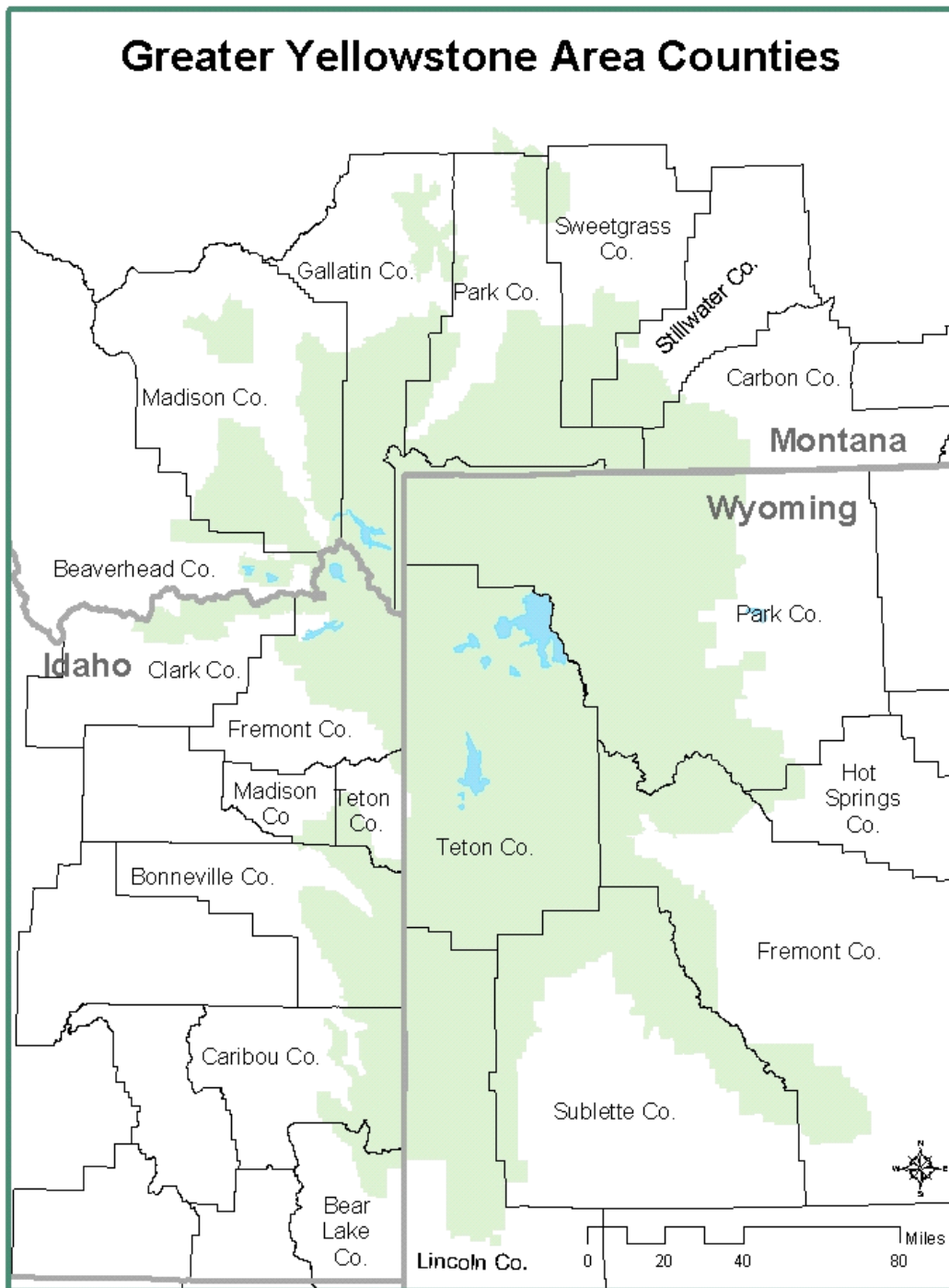


Figure 3.2: Map of Greater Yellowstone Area Counties

## IDAHO

In 1975, the Idaho Legislature passed the Local Planning Act providing a statutory framework for local planning and land use regulation. In 1995, the act was renamed the Local Land Use Planning Act. The regulations are found in Idaho state statute Title 67, Chapter 65. The Act requires every city and county to develop a comprehensive plan and to enact zoning and subdivision ordinances. Each local government determines its level of complexity of planning and land use regulation. Planning and zoning authority is delegated to the city council or board of county commissioners, who may exercise these powers or may appoint a planning and zoning commission, or separate planning and zoning commissions, to assist.

The Act also allows, but does not require, cities and counties to:

- Establish a single or separate planning and zoning commissions,
- Establish a future acquisitions map,
- Provide for development agreements,
- Allow transfers of development rights,
- Establish hearing examiners,
- Regulate planned unit developments,
- Provide for enforcement of land use regulations,
- Establish development standards, and
- Provide for conditional use permits.

### **Comprehensive Plan**

Idaho's Local Land Use Planning Act requires a non-regulatory comprehensive plan which sets overall direction, includes a map of current land uses, a future land use map, and goals/objectives/ policies for 14 elements:

- |   |  |
|---|--|
| 1. Property Rights                      | 8. Public Services, Facilities and Utilities |
| 2. Population                           | 9. Transportation                            |
| 3. School Facilities and Transportation | 10. Recreation                               |
| 4. Economic Development                 | 11. Special Areas or Sites                   |
| 5. Land Use                             | 12. Housing                                  |
| 6. Natural Resources                    | 13. Community Design                         |
| 7. Hazardous Areas                      | 14. Implementation                           |

The land use component includes a map of current land uses and an analysis of the suitability of land for uses such as agriculture, forestry, mining, preservation, recreation, housing, commerce, industry and public facilities. Also included is a future land use map, which assimilates the goals, objectives and policies of the other planning components and serves as a visual representation of the community's consensus about the nature and location of future growth and development. In addition to land uses, the future land use map also shows the location of proposed extensions of public services and infrastructure, including streets, schools, water and wastewater systems and parks.

The comprehensive plan is not a regulatory document. The plan must be implemented through local zoning and subdivision ordinances.

## **Zoning Ordinance**

The zoning ordinance implements the comprehensive plan. It consists of zoning map(s) and the text of the ordinance. The zoning map illustrates how the city or county is divided into numerous zoning districts, which generally fit within the broad categories of residential, commercial, industrial and agricultural. In addition, counties often adopt “overlay zones” with additional criteria. An example is a “floodplain overlay zone” with additional requirements for floodplains. In each zoning district, specific land uses are permitted, conditionally permitted or prohibited. Each zoning district also has its own standards for lot size, density, lot coverage, building height, number of stories and setbacks.

## **Subdivision Ordinance**

Idaho law defines a subdivision as a “tract of land divided into five or more lots, parcels or sites for the purpose of sale or building development, whether immediate or future”. In Idaho, subdivision regulations largely address development specifics such as the roads, utilities, sidewalks, lot layout, etc in a particular subdivision. Subdivision regulations:

- Ensure that land is developed in a manner consistent with the local comprehensive plan;
- Provide that facilities and infrastructure are constructed for new development, meeting minimum standards of health and safety; and
- Provide a secure method of conveying land by requiring property to be surveyed and mapped.

The subdivision review process follows three phases. In Phase 1, for which counties use terms such as initial review, preliminary sketch, concept plan, or something similar, the developer submits a conceptual plan. In the second phase, “preliminary plat” (or map), the developer submits detailed information on all aspects of the development, including the location of streets, sidewalks, utilities, lot layout, the number and type of buildings, population density, parking, parks and recreational facilities, landscaping, etc. The fact-finding details and specifics required by ordinance and law, including the development’s relationship to surrounding development, are determined in the preliminary plat phase. This is the most critical phase of subdivision development to provide input to local government. Though public hearings are not required for preliminary plat approval under the Local Land Use Planning Act, most cities and counties require public hearings at this step in the process.

The local jurisdiction’s decision on the preliminary plat should include a reasoned statement with a conclusion that the proposed subdivision complies/does not comply with the subdivision ordinance, zoning ordinance and comprehensive plan, and any conditions of approval, or reasons for rejection.

The third phase is the final plat approval. Approval of the final plat is required if the developer has complied with the provisions of the preliminary plat, applicable state statutes and local ordinances.

Many local governments have a “short plat” procedure for divisions of a few lots (generally 5 or less) where no new roadways are created. Generally, this process has fewer procedural requirements.

An example comment letter (following page 3-20) from the Forest Service to the Fremont County Planning Department concerning the Shadow Ridge at Stephens Ranch Preliminary Plat addressed the following points:

- Predicted traffic load,
- Sanitation in grizzly bear habitat,
- Wildland fire hazard mitigation, and
- Use of off-road vehicles on NFS lands.

### **Statutes**

The Idaho Statutes pertaining to local land use planning are found in:

*Title 67 State Government and State Affairs, Chapter 65 Local Land Use Planning*, and are available at: <http://www3.state.id.us/idstat/TOC/67065KTOC.html>

### Source:

Idaho Association of Counties. Undated. *Smart Towns, A Guide to Growth Management*.

Available online at:

[http://idcounties.org/index.asp?Type=B\\_BASIC&SEC=%7B0B061AEE-9667-4C06-8516-A60C63982F98%7D&DE=%7B77EDEEA7-BFC6-45FF-B567-682546737B3B%7D](http://idcounties.org/index.asp?Type=B_BASIC&SEC=%7B0B061AEE-9667-4C06-8516-A60C63982F98%7D&DE=%7B77EDEEA7-BFC6-45FF-B567-682546737B3B%7D)

## Idaho County Land Use Planning Summary and Contact Information

<b>Idaho County</b>	<b>Comprehensive Plan</b>	<b>Zoning/Subdivision Regulation</b>	<b>County Planning Department/GIS Websites</b>
<p><b><u>Clark</u></b> County Seat: Dubois  Population: 906</p>	<p>Comprehensive Plan not available on-line.</p>	<p>Ordinances not available on-line.</p>	<p>None County Courthouse, Dubois, ID 83423-0007 Phone: (208) 374-5304</p>
<p><b><u>Fremont</u></b> County Seat: Saint Anthony  Population: 12,517</p>	<p>2002 Comprehensive Plan currently undergoing update; 2008 draft update on-line at: <a href="http://www.co.fremont.id.us/departments/planning_building/Comp_Plan/index.htm">http://www.co.fremont.id.us/departments/planning_building/Comp_Plan/index.htm</a></p>	<p>2003 Development Code (zoning and subdivision regulations) on-line, 2008 draft update on-line at: <a href="http://www.co.fremont.id.us/departments/planning_building/index.htm">http://www.co.fremont.id.us/departments/planning_building/index.htm</a></p>	<p><a href="http://www.co.fremont.id.us/departments/planning_building/index.htm">http://www.co.fremont.id.us/departments/planning_building/index.htm</a></p>
<p><b><u>Madison</u></b> County Seat: Rexburg  Population: 36,647</p>	<p>A Comprehensive Plan update process began in 2007, final draft available on-line at: <a href="http://www.co.madison.id.us/modules/smartsection/item.php?itemid=117">http://www.co.madison.id.us/modules/smartsection/item.php?itemid=117</a></p>	<p>2007 Zoning and Subdivision ordinances. Available online at: <a href="http://www.co.madison.id.us/modules/smartsection/category.php?categoryid=21">http://www.co.madison.id.us/modules/smartsection/category.php?categoryid=21</a></p>	<p><a href="http://www.co.madison.id.us/modules/smartsection/category.php?categoryid=17">http://www.co.madison.id.us/modules/smartsection/category.php?categoryid=17</a>  pdf maps online <a href="http://www.rexburg.org/departments/gis/countymaps.aspx">http://www.rexburg.org/departments/gis/countymaps.aspx</a></p>
<p><b><u>Teton</u></b> County Seat: Driggs  Population: 8,349</p>	<p>2002 Comprehensive Plan amended 2005. Available on-line at: <a href="http://tetoncountyidaho.gov/dept_pz_compPlan.php">http://tetoncountyidaho.gov/dept_pz_compPlan.php</a></p>	<p>2002 Zoning and 2007 Subdivision Regulations. Available online at: <a href="http://tetoncountyidaho.gov/regs.php">http://tetoncountyidaho.gov/regs.php</a></p>	<p><a href="http://tetoncountyidaho.gov/dept_pz.php">http://tetoncountyidaho.gov/dept_pz.php</a>  pdf maps online: <a href="http://tetoncountyidaho.gov/dept_gis.php">http://tetoncountyidaho.gov/dept_gis.php</a></p>

<b>Idaho County</b>	<b>Comprehensive Plan</b>	<b>Zoning/Subdivision Regulation</b>	<b>County Planning Department/GIS Websites</b>
<b><u>Bonneville</u></b> County Seat: Idaho Falls  Population: 96,545	Comprehensive Plan available at County Courthouse.	Zoning and Subdivision ordinances available at County Courthouse.	<a href="http://www.co.bonneville.id.us/planning-zoning.php">http://www.co.bonneville.id.us/planning-zoning.php</a> (underway)  GIS online maps (parcel based): <a href="http://webmap.co.bonneville.id.us/bonnevillewebmap/">http://webmap.co.bonneville.id.us/bonnevillewebmap/</a>
<b><u>Caribou</u></b> County Seat: Soda Springs  Population: 6,862	Comprehensive Plan not available on-line.	Ordinances not available on-line.	None County Courthouse Soda Springs, ID 83276-0775 Phone: (208) 547-4324
<b><u>Bear Lake</u></b> County Seat: Paris  Population: 5,863	Comprehensive Plan not available on-line	Land Use Ordinance and 2007 Subdivision Ordinance available on-line at: <a href="http://www.bearlakeregionalcommission.org/bear_lake_county.htm">http://www.bearlakeregionalcommission.org/bear_lake_county.htm</a>	<a href="http://www.bearlakeregionalcommission.org/bear_lake_county.htm">http://www.bearlakeregionalcommission.org/bear_lake_county.htm</a>

Population is 2007 per www.census.gov

Table 3.1: Idaho County Land Use Planning Summary and Contact Information

## MONTANA

In 1999, Montana passed a “growth policy” statute (MCA 76-1-601 through 76-1-606) that changed the terms "master plan" and "comprehensive plan" to "growth policy" and established minimum requirements for growth policies. A growth policy is optional and non-regulatory. Montana State statutes allow, but do not require zoning.

The Montana Subdivision and Platting Act (MSPA, 76-3-608, MCA) requires all units of local government to adopt and enforce subdivision regulations, and to review and decide on development proposals that would divide land into parcels of less than 160 acres. The Local Planning Enabling Act (76-1-606, MCA) requires that subdivision regulations be in accordance with any adopted growth policy.

### **Growth Policy**

A number of elements are required in a growth policy; the extent to which a growth policy addresses the following elements is at the full discretion of the governing body:

- Community goals and objectives;
- Maps and text of existing characteristics, and projected trends (except public facilities) for land uses, population, housing needs, economic conditions, local services, public facilities, natural resources, and other;
- A description of the policies, regulations, and other tools to achieve the goals and objectives of the growth policy;
- A strategy for development, maintenance, and replacement of public infrastructure, including drinking water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities, roads, and bridges;
- An implementation strategy that includes:
  - a timetable for implementing the growth policy;
  - a list of conditions that will lead to a revision of the growth policy;
  - a timetable for review/any necessary revision at least once every 5 years;
- An explanation of coordination and cooperation with other jurisdictions;
- An explanation of how the governing body will evaluate and make decisions regarding proposed subdivisions for the "public interest" criteria of agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety (established in section 76-3-608 (3)(a), MCA);
- An explanation of how public hearings regarding proposed subdivisions will be conducted;
- An evaluation of the potential for fire and wildland fire in the jurisdictional area that includes: Delineation of the wildland-urban interface; and adoption of regulations that require defensible space for structures; ingress and egress to facilitate fire suppression; and adequate water supplies for fire protection.

The seven Montana counties with federal lands within the GYA have each adopted a county growth policy.

## **Zoning**

While zoning is not required, in Montana, local governments may enact zoning regulations, as authorized under three different state statutes:

1. Cities and towns may adopt and enforce zoning ordinances under the Municipal Zoning Enabling Act (76-2-301, MCA);
2. The County Planning and Zoning Commission Act (76-2-101, MCA), allows a county to enact land use regulations for an area in the county where at least 60 percent of the property owners sign a petition requesting formation of a district and adoption of regulations; and
3. Counties may enact zoning under the County Zoning Enabling Act (76-2-201, MCA).

Five of the seven Montana counties with federal lands within the GYA have citizen initiated zoning districts near the GYA federal lands. None of the counties has adopted county-wide zoning. A number of the larger communities also have city zoning.

## **Subdivision Regulation**

Subdivision regulations regulate the process of dividing land into lots and providing public facilities (e.g., roads, water, sewer, storm drainage) to the lots. The Montana Subdivision and Platting Act (MSPA) requires all units of local government to adopt and enforce subdivision regulations, and to review and decide on development proposals that would divide land into parcels of less than 160 acres, with some exceptions. Therefore, as required by law the seven Montana counties with federal lands within the GYA have adopted subdivision regulations.

Per MSPA Section 76-3-102, the purpose of subdivision regulations are to:

- Promote the public health, safety, and general welfare by regulating subdivision of land;
- Prevent overcrowding of land;
- Lessen congestion in the streets and highways;
- Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
- Require development in harmony with the natural environment;
- Promote preservation of open space;
- Promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
- Protect the rights of property owners; and
- Require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey.

MSPA Section 76-3-608(3)(A) requires subdivisions to be reviewed for effect on agriculture, agricultural water user facilities, local services, natural environment, wildlife and wildlife habitat, and public health and safety.

Adoption of a growth policy is not a prerequisite for a local government to adopt subdivision regulations. In fact, state statute requires all units of local government to adopt and enforce subdivision regulations, regardless of whether they have a growth policy. However, if a local government adopts a growth policy, then the Local Planning Enabling Act (76-1-606, MCA) requires that subdivision regulations be in accordance that growth policy.

The subdivision review process includes three steps. The first step is a pre-application meeting between the applicant and the local jurisdiction. The second phase, preliminary plat (or map), requires a public notice/review process. This is the most critical phase of subdivision development to provide input to local government. The governing body must issue written “findings of fact” that weigh the criteria contained in MCA 76-3-608(3). Effective public comment will address the criteria for which a jurisdiction must make “findings of fact”. These criteria include (among others) finding the effects to:

- agriculture,
- agricultural water user facilities,
- local services,
- the natural environment,
- wildlife and wildlife habitat,
- public health and safety, and
- the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

An example comment letter (following page 3-20) from the Forest Service to the Madison County Commissioners concerning the Bradley Creek Subdivision addressed the subdivision review criteria in its three key points of:

- fire suppression and fire fighter safety (criteria: local services; public health and safety);
- antelope breeding, elk winter range, wolverine, grizzly bear, wildlife movement (criteria: wildlife and wildlife habitat); and
- water quality (criteria: natural environment).

The third subdivision review phase is the final plat approval, which does not require a public hearing. After approving the preliminary plat, a governing body may not impose any additional conditions for final plat approval, provided the approval does not expire.

An environmental assessment is required for subdivisions applications that are not first minor subdivision applications, unless the subdivision qualifies for an exemption. An exemption may be granted if the subdivision 1) is located in an area covered by a growth policy, zoning and a long-range development program of the public works projects, or 2) is in compliance with an approved growth policy and will contain less than 10 parcels on less than 20 acres. An environmental assessment must meet the content requirements of MCA S 76-3-603:

- a description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision;
- a summary of the probable impacts of the proposed subdivision based on the criteria described in MCA 76-3-608; (again, among others, the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, the provision of legal and physical access to each parcel and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel);

- a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and
- additional relevant and reasonable information related to the applicable regulatory criteria adopted under 76-3-501 as may be required by the governing body.

Governing bodies may find some lands unsuitable for subdivision for building or residential purposes unless hazards are eliminated or mitigated. Unsuitable lands may have one or more of the following potential hazards: flooding, snow avalanches, rock falls, land slides, unstable soils, steep slopes over 25% grade, high water table, inadequate, polluted, or non-potable water supply, high voltage or high pressure gas lines, air or vehicular traffic hazards, congestion, inadequate access, and lands placing unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds or environmental degradation. These lands must not be subdivided for building or residential purposes unless hazards are eliminated or will be overcome by approved mitigation measures or design and construction plans.

Requirements differ for “major” and “minor” subdivisions. Minor subdivisions result in five or fewer parcels, each with proper access, no land dedicated to parks or playgrounds and plats have been approved by Montana State Department of Environmental Quality. Only the first minor subdivision on a tract of land is not required to prepare an environmental assessment, dedicate parkland, have a public hearing or make findings on the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public health and safety, *if* the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

A number of land divisions are exempted from subdivision regulations: divisions for the purpose of relocating common boundaries, divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family, and land divisions exclusively for agricultural purposes.

### **Statutes**

The Montana Code pertaining to land use planning is found in: *Title 76 Land Resources and Use*  
*Chapter 1 Planning Boards*  
*Chapter 2 Planning and Zoning*  
*Chapter 3 Local Regulation of Subdivisions*  
*Chapter 4 State Regulation of Subdivisions*  
*Chapter 5 Floodplain and Floodway Management*  
*Chapter 6 Open Spaces*

and are available at: [http://data.opi.state.mt.us/bills/mca\\_toc/76.htm](http://data.opi.state.mt.us/bills/mca_toc/76.htm)

### Source

Montana Department of Commerce, Community Development Division, January 2008.  
 “*Montana’s Growth Policy Resource Book*”. Online at:  
<http://commerce.mt.gov/COMDEV/Includes/MTGrowthPolicyBook.pdf>

## Montana County Land Use Planning Summary and Contact Information

<b>Montana County</b>	<b>Growth Policy</b>	<b>Zoning/Subdivision Regulation</b>	<b>County Planning Department/GIS Websites</b>
<u>Beaverhead Co.</u> County Seat: Dillon  Population: 8,804	2005 Growth Policy. Available on-line at: <a href="http://www.beaverheadcounty.org/Growth_Policy.pdf">http://www.beaverheadcounty.org/Growth_Policy.pdf</a>	2007 Subdivision Regulations. Available on-line at Planning Dept website.	<a href="http://www.beaverheadcounty.org/html/land_use_and_planning_deptme.html">http://www.beaverheadcounty.org/html/land_use_and_planning_deptme.html</a>
<u>Madison County</u> County Seat: Virginia City  Population: 7,426	2006 Growth Policy. Available on-line at: <a href="http://www.madison.mt.gov/departments/plan/publications/MCGrowthPolicy0906.pdf">http://www.madison.mt.gov/departments/plan/publications/MCGrowthPolicy0906.pdf</a>	2006 Subdivision Regulations Available on-line at: <a href="http://www.madison.mt.gov/departments/plan/publications/sub_regs/SubRegsWebV0906.pdf">http://www.madison.mt.gov/departments/plan/publications/sub_regs/SubRegsWebV0906.pdf</a>	<a href="http://www.madison.mt.gov/departments/plan/planning.asp">http://www.madison.mt.gov/departments/plan/planning.asp</a>
<u>Gallatin County</u> County Seat: Bozeman  Population: 87,359	2003 Growth Policy. Available on-line at: <a href="http://www.gallatin.mt.gov/public_documents/gallatincomt_plandept/uploadedpdfs/growthpolicy.complete.05.pdf">http://www.gallatin.mt.gov/public_documents/gallatincomt_plandept/uploadedpdfs/growthpolicy.complete.05.pdf</a>	2006 Subdivision Regulations Available on-line at: <a href="http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/gallatincomt_planregs/subregs">http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/gallatincomt_planregs/subregs</a>  Two county zoning districts and 14 citizen-initiated zoning districts regulations available on-line at: <a href="http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/gallatincomt_zonedist/zoninghome">http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/gallatincomt_zonedist/zoninghome</a>	<a href="http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/planning">http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/planning</a>  GIS online maps: <a href="http://webapps.gallatin.mt.gov/mappers/">http://webapps.gallatin.mt.gov/mappers/</a>

<b>Montana County</b>	<b>Growth Policy</b>	<b>Zoning/Subdivision Regulation</b>	<b>County Planning Department/GIS Websites</b>
<u>Park County</u> County Seat: Livingston  Population: 16,099	The 2006 Growth Policy. Available on-line at: <a href="http://www.parkcounty.org/growth%20policy.html">http://www.parkcounty.org/growth%20policy.html</a>	2006 Subdivision Regulations. Available on-line at: <a href="http://www.parkcounty.org/subdivision%20regs.html">http://www.parkcounty.org/subdivision%20regs.html</a>  One county-initiated and six citizen-initiated zoning districts. Online at: <a href="http://www.parkcounty.org/zoning%20regs.html">http://www.parkcounty.org/zoning%20regs.html</a>	<a href="http://www.parkcounty.org/planning.html">http://www.parkcounty.org/planning.html</a>  pdf maps on line: <a href="http://www.parkcounty.org/GIS_Address/gis_address.html">http://www.parkcounty.org/GIS_Address/gis_address.html</a>
<u>Sweetgrass Co</u> County Seat: Big Timber  Population: 3,807	2003-2008 Growth Policy. Available on-line at: <a href="http://www.co.sweetgrass.mt.us/2003growthapproved.pdf">http://www.co.sweetgrass.mt.us/2003growthapproved.pdf</a>	2006 Subdivision Regulations. Available on-line at: <a href="http://www.co.sweetgrass.mt.us/FINALSUBDIVISIONREGS2006.pdf">http://www.co.sweetgrass.mt.us/FINALSUBDIVISIONREGS2006.pdf</a>  One Citizen initiated zoning district.	<a href="http://www.co.sweetgrass.mt.us/planning.htm">http://www.co.sweetgrass.mt.us/planning.htm</a>
<u>Stillwater Co</u> County Seat: Columbus  Population: 8,660	2007 Growth Policy. Available on-line at: <a href="http://www.stillwater.mt.gov/Planning/growth%20policy.asp">http://www.stillwater.mt.gov/Planning/growth%20policy.asp</a>	2007 Subdivision Regulations. Available on-line at: <a href="http://www.stillwater.mt.gov/Planning/Table%20of%20Contents.asp">http://www.stillwater.mt.gov/Planning/Table%20of%20Contents.asp</a>  One citizen-initiated zoning district.	<a href="http://www.stillwater.mt.gov/Planning/default.asp">http://www.stillwater.mt.gov/Planning/default.asp</a>
<u>Carbon County</u> County Seat: Red Lodge  Population: 9,721	2003 Growth Policy. Available on-line at: <a href="http://www.co.carbon.mt.us/component/option,com_docman/task_cat_view/gid,21/Itemid,49/">http://www.co.carbon.mt.us/component/option,com_docman/task_cat_view/gid,21/Itemid,49/</a>	Carbon County 2005 Subdivision Regulations. Available on-line. <a href="http://www.co.carbon.mt.us/component/option,com_docman/task_cat_view/gid,25/Itemid,49/">http://www.co.carbon.mt.us/component/option,com_docman/task_cat_view/gid,25/Itemid,49/</a>	<a href="http://www.co.carbon.mt.us/">http://www.co.carbon.mt.us/</a>

Population is 2007 per www.census.gov

Table 3.2: Montana County Land Use Planning Summary and Contact Information

## WYOMING

### **Comprehensive Plan/Land Use Plan**

In 1975, the Wyoming Legislature enacted the State Land Use Planning Act, (W.S.S. 9-8-101 through 9-8-302 Annotated 1997 Edition) which mandated the preparation and adoption of local land use plans. A Comprehensive Plan consists of maps, policies, goals, and actions, and provides a blueprint or vision for how a community or region should grow in the future. The adoption of implementation techniques, such as zoning, remains voluntary.

Wyoming State Statutes 18-5-101 through 18-5-315 Annotated 1997 Edition gave counties the authority to conduct land use planning programs and to establish planning commissions, prepare land use plans and adopt zoning ordinances. Wyoming State Statutes 15-1-501 through 15-1-611 provide towns and cities the authority to conduct land use planning programs and to establish planning commissions, prepare land use plans and adopt zoning ordinances.

The State Land Use Planning Act of 1975 requires the county to coordinate planning efforts and that any county wide land use plan also incorporate the plans of the cities and towns within that county wide plan.

As required by law, the six Wyoming Counties with federal lands within the GYA have adopted a county comprehensive plan or land use plan.

### **Zoning**

While counties have the authority to adopt zoning ordinances, zoning is not required. Four of the six counties with federal lands within the GYA have a zoning ordinance and zoning map. Park, Sublette, Lincoln and Teton Counties have zoning ordinances. Fremont County does not have a zoning ordinance. Hot Springs County does not appear to have a zoning ordinance or map, but requires a “land use permit” to change from the present use to a different use.

Counties establish a range of “zones”, including agriculture, various residential, recreational, commercial, industrial, resource conservation, scenic/historic, and rural mixed. Some counties adopt a range of “urban” and “rural” zones. In addition, counties often adopt “overlay zones”, such as a floodplain overlay zone with additional criteria. In each zoning district, specific land uses are permitted, conditionally permitted or prohibited. Each zoning district also has its own standards for lot size, density, lot coverage, building height, number of stories and setbacks.

Changes to the zoning ordinance text or map require a process that typically includes a pre-application meeting, Planning and Zoning Commission review/action and Board of County Commissioner's review/action. The required findings for a zoning ordinance change can vary by county, and may include criteria such as availability of adequate public services, availability of water or effects on neighboring properties.

### **Subdivision Regulation**

The 1975 Wyoming Real Estate Subdivision Act required subdivisions regulations in every county and specified minimum standards. The law required a subdivision permit before dividing a parcel of land into more than two pieces. This requirement did not apply to divisions which

resulted in parcels 35 acres or larger, or to land sold for agricultural purposes. Later, exemptions were added for a number of property divisions including for the sale or gift to family members (to a minimum of five acres). Counties are allowed to exempt any proposed division of property into five or fewer parcels from subdivision requirements. In 2008, the statute was amended to allow, but not require, counties to require a permit for subdivisions that create parcels from 35 to 140 acres. The new statute does not apply to parcels recorded before July 1, 2008 which are allowed to be divided into ten parcels between 35 and 140 acres.

As required by law, the six Wyoming Counties with federal lands within the GYA have adopted subdivision regulations.

The subdivision review process typically includes a pre-application meeting with county staff, an application, Planning Commission review/action and County Board review/action. Public hearing requirements may vary by County. Some counties have different procedures for “simple”, “minor” and “major” subdivisions, although the exact terms may vary. The simpler subdivisions may only be required to submit a “sketch plan” rather than a preliminary plat.

Some counties define a simple subdivision as one which divides a parcel into two parcels, each less than 35 acres. Procedural requirements are often simpler than larger land divisions and may include a pre-application meeting with county staff, a sketch plan, planning commission review of the sketch plan and County Board action on the final plat. Public hearing requirements may vary by County.

Some counties define a minor subdivision as one which divides a parcel into not more than five (5) lots, each lot being smaller than 35 acres. The procedural requirements often include a pre-application meeting with county staff, a sketch plan, planning commission review of the sketch plan and County Board action on the final plat. Public hearing requirements may vary by County.

Some counties define a major subdivision as one which divides a parcel into six (6) or more lots, each smaller than 35 acres, and require sketch plan review, preliminary plat review, and final plat review.

The required findings for a subdivision can vary by county, and may include criteria such as consistency with the County Land Use Plan and Zoning regulations and availability of adequate public services, availability of water or effects on neighboring properties, effects on agricultural water rights or scenic resources, wildlife, fisheries among other criteria.

### **Statutes**

The Wyoming Statutes pertaining to land use planning are found in:

- *Title 9 Administration of the Government and State Affairs, Chapter 8 Land Use Planning*
- *Title 15 Cities and Towns, Chapter 1 General Provisions, Article 5 Planning and Article 6 Zoning*
- *Title 18 Counties, Chapter 5 Planning and Zoning, Article 1 County Planning Commission, Article 2 Planning and Zoning Commission, Article 3 Real Estate Subdivisions*  
and are available at: <http://legisweb.state.wy.us/titles/statutes.htm>

## Wyoming County Land Use Planning Summary and Contact Information

Wyoming County	Comprehensive Plan	Zoning/Subdivision Regulation	County Planning Department/GIS Websites
<p><u>Park County</u> County Seat: Cody  Population: 27,073</p>	<p>1998 Land Use Plan. Available on-line at: <a href="http://www.parkcounty.us/planningandzoning/Land%20Use.pdf">http://www.parkcounty.us/planningandzoning/Land%20Use.pdf</a></p>	<p>2008 Development Standards and Regulations includes subdivision regulations. Available on-line at: <a href="http://www.parkcounty.us/planningandzoning/Final%20Document.pdf">http://www.parkcounty.us/planningandzoning/Final%20Document.pdf</a></p>	<p><a href="http://www.parkcounty.us/planandzone.htm">http://www.parkcounty.us/planandzone.htm</a>  pdf maps on-line</p>
<p><u>Hot Springs County</u> County Seat: Thermopolis  Population: 4,553</p>	<p>2002 Land Use Plan; includes Development Permit System. Available on-line at Planning Dept website.</p>	<p>Development Permit System is included in the Land Use Plan. Available on-line at Planning Dept website.</p>	<p><a href="http://www.hscounty.com/Departments/Planner/Default.aspx">http://www.hscounty.com/Departments/Planner/Default.aspx</a></p>
<p><u>Fremont County</u> County Seat: Lander  Population: 37,479</p>	<p>2001 draft Land Use Plan Available on-line at: <a href="http://fremontcountywy.org/landuseplan.htm">http://fremontcountywy.org/landuseplan.htm</a></p>	<p>Subdivision regulation. Not available on-line.</p>	<p><a href="http://fremontcountywy.org/planning.htm">http://fremontcountywy.org/planning.htm</a></p>
<p><u>Sublette County</u> County Seat: Pinedale  Population: 7,925</p>	<p>2003 Comprehensive Plan Available on-line at: <a href="http://www.sublettewyo.com/pz/Regulation%20Documents/SubletteCountyCompPlan.pdf">http://www.sublettewyo.com/pz/Regulation%20Documents/SubletteCountyCompPlan.pdf</a></p>	<p>2008 Zoning and Development Regulations Available on-line at: <a href="http://www.sublettewyo.com/pz/Regulation%20Documents/ZoningReg3-18-08.pdf">http://www.sublettewyo.com/pz/Regulation%20Documents/ZoningReg3-18-08.pdf</a>  2008 Subdivision Resolution Available on-line at: <a href="http://www.sublettewyo.com/pz/Regulation%20Documents/SubdivisionResolution.pdf">http://www.sublettewyo.com/pz/Regulation%20Documents/SubdivisionResolution.pdf</a></p>	<p><a href="http://www.sublettewyo.com/pz/index.html">http://www.sublettewyo.com/pz/index.html</a>  online GIS map: <a href="http://www.sublettewyo.com/mapserver/sc.html">http://www.sublettewyo.com/mapserver/sc.html</a></p>

<b>Wyoming County</b>	<b>Comprehensive Plan</b>	<b>Zoning/Subdivision Regulation</b>	<b>County Planning Department/GIS Websites</b>
<u>Lincoln County</u> County Seat: Kemmerer  Population: 16,171	2006 Comprehensive Plan Available on-line at: <a href="http://www.lcwy.org/documents.asp?dir=Planning&amp;view=Comprehensive_Plan">http://www.lcwy.org/documents.asp?dir=Planning&amp;view=Comprehensive_Plan</a>	2007 Land Use Regulations; zoning and subdivision. Available on-line at: <a href="http://www.lcwy.org/documents.asp?dir=Planning&amp;view=Land_Use_Regulations">http://www.lcwy.org/documents.asp?dir=Planning&amp;view=Land_Use_Regulations</a>	<a href="http://www.lcwy.org/planning.asp">http://www.lcwy.org/planning.asp</a> pdf maps on line  On-line GIS maps: <a href="http://www.lcwy.org/interactivemaps.asp">http://www.lcwy.org/interactivemaps.asp</a>
<u>Teton County</u> County Seat: Jackson  Population: 20,002	Town of Jackson and Teton County jointly updating 1994 Comp Plan. Available on-line at: <a href="http://www.tetonwyo.org/plan/pdplan/nav/201976.asp">http://www.tetonwyo.org/plan/pdplan/nav/201976.asp</a>	Land Development Regulations (LDR). Available on-line at: <a href="http://www.tetonwyo.org/plan/pdplan/nav/201976.asp">http://www.tetonwyo.org/plan/pdplan/nav/201976.asp</a>  LDR update when comp plan revision is completed.	<a href="http://www.tetonwyo.org/plan/">http://www.tetonwyo.org/plan/</a>  on-line GIS maps: <a href="http://www.tetonwyo.org/GIS/">http://www.tetonwyo.org/GIS/</a>

Population is 2007 per www.census.gov

Table 3.3: Wyoming County Land Use Planning Summary and Contact Information

## Key Components to Commenting on Local Land Use Actions

### Research the Local Land Use Regulations

*Planning Process:* Determine the process for a land use decision. If a subdivision is proposed, will it go through the preliminary plat process and the final plat process? Know when public comment is accepted.

*Decision Makers:* Determine what decisions the planning department staff makes, whether there is a planning/zoning commission and its role, and the decisions made by the county Board of Commissioners.

*Public Comment Opportunities:* Determine when there are opportunities for public comment. While written comment is likely always acceptable, there may be times it is desirable to attend and testify at a public hearing.

### Ask to be Notified of Land Use Applications

When an application is located adjacent to a public land boundary, it is likely that the agency will be notified as an adjacent land owner. It may be desirable to request to be notified of actions some distance of the public land boundary, if there may be impacts to public lands and resources.

### Address the Decision Making Criteria

A land use regulation will often require the decision making body to make “findings of fact” for its decisions, and will include the criteria for those findings. Address the criteria by which the local jurisdiction must make its findings. Research each county’s regulations to determine the decision making criteria. By Montana State law county subdivision regulations require local officials to make findings on the effects to the following (among others):

- agriculture,
- agricultural water user facilities,
- local services,
- the natural environment,
- wildlife and wildlife habitat,
- public health and safety, and
- the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

### Be Involved Early and Often

A county’s overall vision will be developed in its comprehensive plan, which is then implemented in zoning and subdivision ordinances, which in turn guide individual developments. The resource information public agencies can provide can be valuable at every stage, and participating from the earliest stages of comprehensive planning and ordinance implementation sets the stage for individual development actions. In the words of Doris Fischer, former Madison County Montana Planning Department Director:

- ~ Local land use planning does not occur without conflict.
- ~ The more ongoing your participation is, the more effective it will be.