



American Planning Association

Creating Great Communities for All

Survey of State Land Use and Natural Hazards Laws



An American Planning Association Report

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Cover photo by Jennifer Smits/FEMA

Background

Recent hurricanes, wildfires, and flooding have highlighted the challenges the United States faces in responding effectively to natural disasters. The 2017 and 2018 hurricanes and wildfires affected millions of individuals and caused billions of dollars in damages. In March 2019, the Midwest experienced historic flooding that affected millions of acres of agriculture and damaged infrastructure. Since 2005, federal funding for disaster assistance is at least \$450 billion. Increasing reliance on federal help to address natural disasters is a key source of federal fiscal exposure, particularly as certain extreme weather events become more frequent and intense (Government Accountability Office 2019).

Supported by a grant from the Federal Emergency Management Agency (FEMA), through its [Cooperating Technical Partners](#) (CTP) program, the American Planning Association (APA) is building upon previous efforts to survey state land-use and natural hazard planning laws in all fifty states. From 2002 through 2010, APA, in coordination with the Institute for Business & Home Safety (IBHS), annually updated a “Survey of State Land-Use and Natural Hazards Planning Laws,” an online report that consisted of matrices comparing state planning legislation generally and as it affected planning for natural hazards specifically.

This reimagined project is an effort to examine ways to heighten the priority level of hazard mitigation in state planning legislation. This work reflects a concern that traditional mitigation efforts have focused largely on improving building codes, strengthening code enforcement, and testing new building techniques and materials. That focus certainly addresses the question of how we build, but land-use planning brings into focus the equally important question of where we build. Ultimately, neither one is completely adequate as an answer to the threat posed to our communities by natural disasters. The two mitigation strategies must complement each other to be maximally effective.

Land-use planning is a job for local and regional jurisdictions. Where state governments require planning and specify the elements that it must contain, localities tend to do a much more thorough job. Where state governments do not require or encourage it, the localities usually do not make planning a priority. This report compares the importance individual states place on land-use planning and the requirements the states place on local jurisdictions. Many states do not require or even suggest to localities that natural hazards be considered in making land-use and development decisions. This is unfortunate because land-use planning can have a major impact in reducing disaster losses from hurricanes, earthquakes, wildfires, and floods. In its efforts to make communities safer, APA continues working to elevate natural hazard mitigation as an essential element in land-use planning.

In 2017, APA reviewed the legislative websites of all 50 states to identify changes to the legislation already identified in the final IBHS review published in 2010, including legislation passed since the 2009 legislative season in each state related to all points from the original matrices including:

- State Land-Use Plans
- State Enabling Legislation
- State Planning Legislation Related to Hazards

In addition, APA identified all legislation pertaining to *new* categories for State Planning Legislation Related to Hazards not surveyed in 2009. New categories surveyed include:

- Legislation aimed at encouraging or requiring *integration of hazards planning* across plans, for example, the local hazard mitigation plan, hazard-related elements of comprehensive plan, etc.
- Legislation aimed at encouraging or requiring comprehensive plans to *address climate change* in some manner. This may include consequences for adaptation, exacerbation of existing hazards, and other questions that are a realistic outgrowth of regional climate change projections.

- Legislation aimed at *enhancing the resiliency* of local communities
- State-mandated *building code standards* exceeding minimum standards
- *Floodplain management laws* including those related to [No Adverse Impact Standards¹](#).

State Land-Use Plans

These identify the existence of any statutory guidelines for a state plan, whether those guidelines include provisions for a land-use element, and whether they include provisions for a hazard mitigation element. It should be noted that these are different from the state producing a hazard mitigation plan under the [Disaster Mitigation Act of 2000](#) or previous federal disaster legislation in order to gain eligibility for federal funds under FEMA’s [Hazard Mitigation Assistance](#) program. The question here is whether any required or existing state plan includes these provisions. Obviously, such state planning could also serve the purposes of the federal program, or vice versa, but many states have no guidelines for including such components in a state plan. Research includes looking for guidelines that address:

1. State land-use plans which must be specifically for state-land-use plans or plans with land-use elements that address physical development.
2. Guidelines that include a land-use element. Here, we’re addressing whether the state plan has a land-use element. In some cases, states have land-use plans for certain designated areas of special concern.
3. Whether the state plan contains some element addressing natural hazards.

Are There Guidelines for a State Plan?



¹ No Adverse Impact is an approach that ensures the action of any community or property owner, public or private, does not adversely impact the property and rights of others. (Association of State Floodplain Managers 2003)

The guidelines must specifically be for legislation for state land-use plans. In this question, state level plans have a chapter on land-use planning and address physical development. In some cases, states have land-use plans for certain designated areas of special concern, such as shorelines.

Notes	
California	By statute, the governor prepares and maintains a comprehensive State Environmental Goals and Policy Report with priority given to the development of statewide land-use policy. The Governor's Office of Planning and Research oversees local planning and creates policy goals
Colorado	There is a title called "Planning-State" but the Colorado Land-use Act (C.R.S. 24-65-101) was repealed in 2005. Other articles address areas of state interest and Planned Unit Developments, but not a state plan.
Delaware	State statute establishes a cabinet committee on state planning issues to "make recommendations" on land-use and development issues. The "state comprehensive plan" is referenced elsewhere in the statutes. The state reviews and certifies local comprehensive plans.
Louisiana	There is no state comprehensive/land-use plan requirement, but elsewhere state statutes establish a coastal protection plan requirement managed by the Coastal Protection and Restoration Authority .
Nevada	There is no state plan mandated, but a governor-appointed State Land-Use Policy Council advises on the development and distribution to cities and counties of information useful to land-use and natural resources planning and advises the State Land-use Planning Agency regarding the development of plans and statements of policy.
South Carolina	The South Carolina Coastal Tidelands and Wetlands Act enacted as per the federal Coastal Zone Management Act establishes a state coastal management program, which requires a state long-range comprehensive beach management plan and local plans. No overall state comprehensive or land-use plan is established.
Tennessee	The Tennessee code (6 TCA 58) address urban growth boundaries and regulates annexation; they are created by counties.
Washington	The state sets planning goals and guidelines pertaining to Growth Management Act plans, but there is no state plan by statute.
Wisconsin	No state plan is required, but the code includes comprehensive planning goals for state agencies.
Wyoming	Wyoming statute 9-892, "Land-use Planning," was repealed in 2013. The statute provides for optional State Planning Coordinator to be employed by the governor.

Do the Guidelines Include a Land-Use Element?

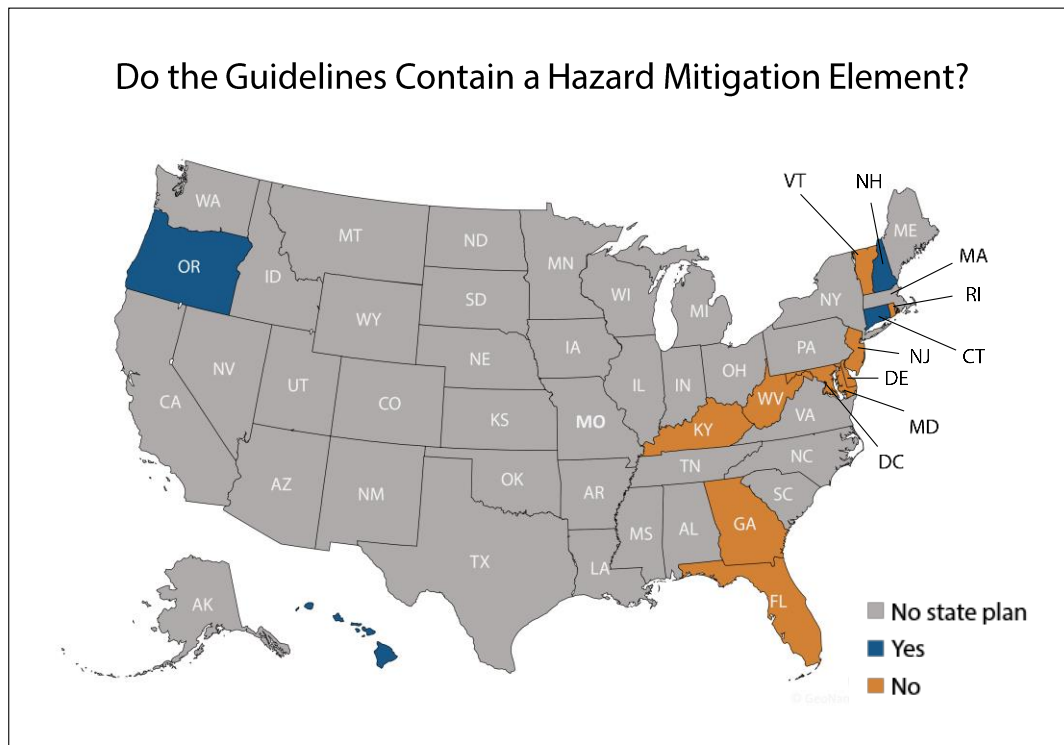
This question relates to whether or not there is a specific land-use element.

Do the Guidelines Include a Land-use Element?		
State	Yes	No
Florida		✓
Kentucky		✓
Maryland	✓	
New Hampshire	✓	
New Jersey	✓	

Oregon	✓	
Rhode Island	✓	
Vermont	✓	
West Virginia		✓
<i>For states not listed, a state plan is not required by statute.</i>		

Do the Guidelines Include a Land-Use Element?	
Notes	
Colorado	There are no state plan guidelines, but there are guidelines for establishing areas of state concern that address land-use.
Connecticut	The State Conservation and Development plan includes a Locational Guide Map (LGM)—conservation and development policies.
Delaware	State planning statutes specifically address land-use issues. The Cabinet Committee on State Planning Issues serves as an advisor to the governor and considers matters relating to the orderly growth and development of the state.
Florida	In preparing the goals, objectives, and policies of the state comprehensive plan, the Executive Office of the Governor shall analyze the problems, opportunities, and needs associated with growth and development in the state, particularly those problems, opportunities, and needs related to land-use, water resources, and transportation system development.
New Hampshire	The comprehensive plan includes goals and policies. The land-use section examines the state’s role in land development and in funding projects and programs which effect land-uses.
Rhode Island	Components of strategic plans prepared and adopted in accordance with this section may be designated as elements of the state guide plan. The state guide plan shall be comprised of functional elements or plans dealing with land-use.
South Carolina	Coastal Management Program addresses planning for coastal lands.
Vermont	State agencies with programs that address land-use must plan.

Do the Guidelines Contain a Hazard Mitigation Element?



This question addresses whether the state plan contains some element addressing natural hazards. In some cases, states have land-use plans for certain designated areas of special concern.

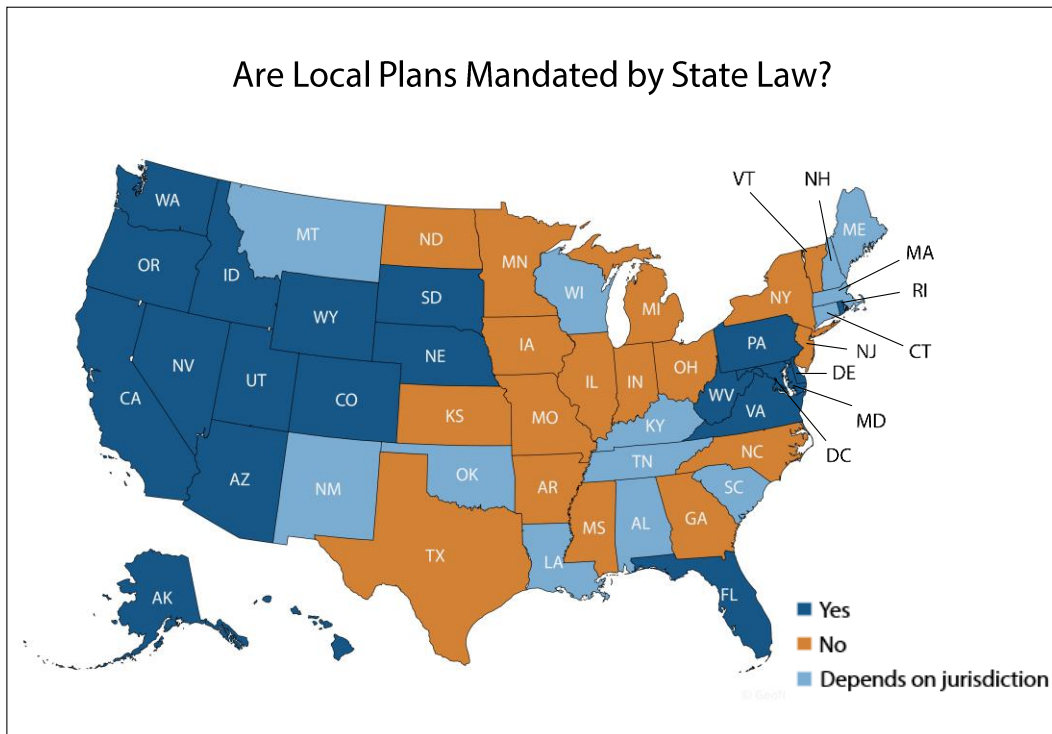
Notes	
Colorado	There is no state plan, but the Areas of State Interest do specifically address hazards. Statutes include 22 definitions relating to hazard—flood, wildfire, among others.
New Hampshire	The plan contains a hazards section which identifies actions to improve the ability of the state to minimize damages from future disasters that effect land and property.

State Enabling Legislation

Are Local Plans Mandated by State Law?

The question here is whether local governments are actually required to plan, as opposed to simply being empowered to plan.

Are Local Plans Mandated by State Law?



Jurisdictions Covered

“Jurisdictions covered^{3*}” refers only to jurisdictions affected by requirements to plan and not to those simply granted authority to do so.

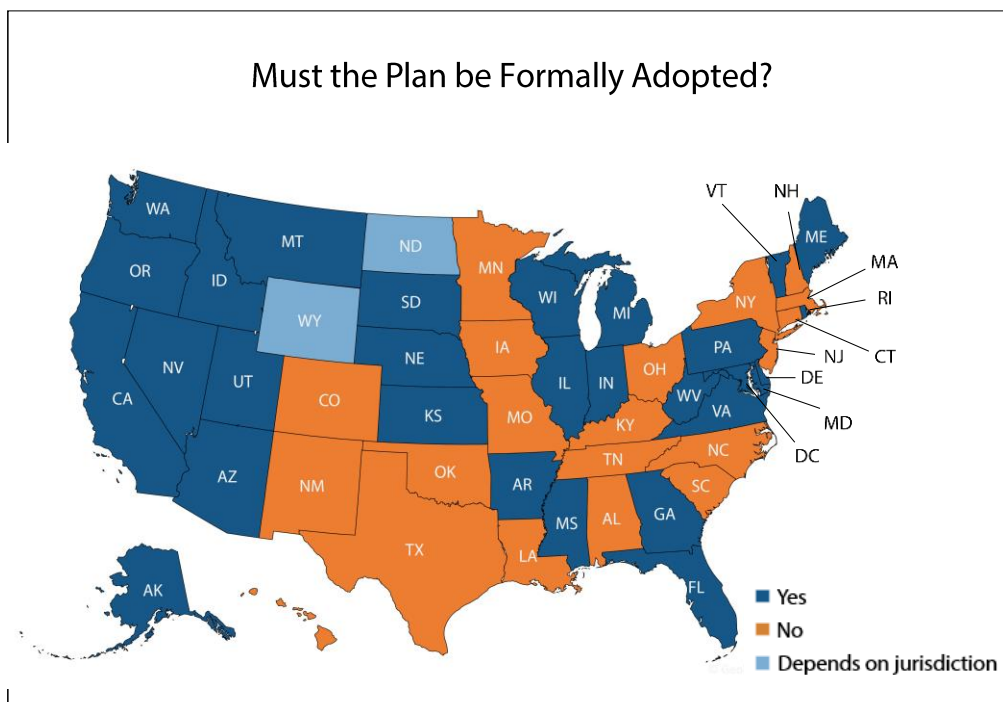
State	Borough	County	City	Municipality	Parish	Town	Township	Village
Alabama		✓		✓				
Alaska	✓	✓						
Arkansas		✓						
Arizona		✓	✓					
California		✓	✓					
Delaware		✓		✓				
Colorado		✓		✓				
Connecticut	✓		✓	✓		✓		✓
Florida		✓		✓				
Hawaii		✓	✓	✓		✓		
Idaho		✓	✓					
Indiana		✓	✓	✓		✓	✓	
Kentucky		✓	✓					
Maine				✓				
Maryland			✓	✓				
Louisiana				✓	✓			
Massachusetts		✓				✓		
Montana		✓	✓			✓		
Nebraska		✓				✓		
Nevada		✓	✓					

New Hampshire				✓				
New Mexico		✓		✓				
Oklahoma		✓	✓					
Oregon		✓	✓					
Rhode Island		✓	✓					
South Carolina				✓				
South Dakota		✓		✓		✓		
Tennessee				✓				
Utah		✓		✓				
Virginia		✓	✓			✓		
Washington		✓	✓					
West Virginia				✓		✓		✓
Wyoming		✓	✓	✓		✓		

* As definitions of these entities vary with state law, individual state laws must be consulted for the precise meaning of the term in each case.

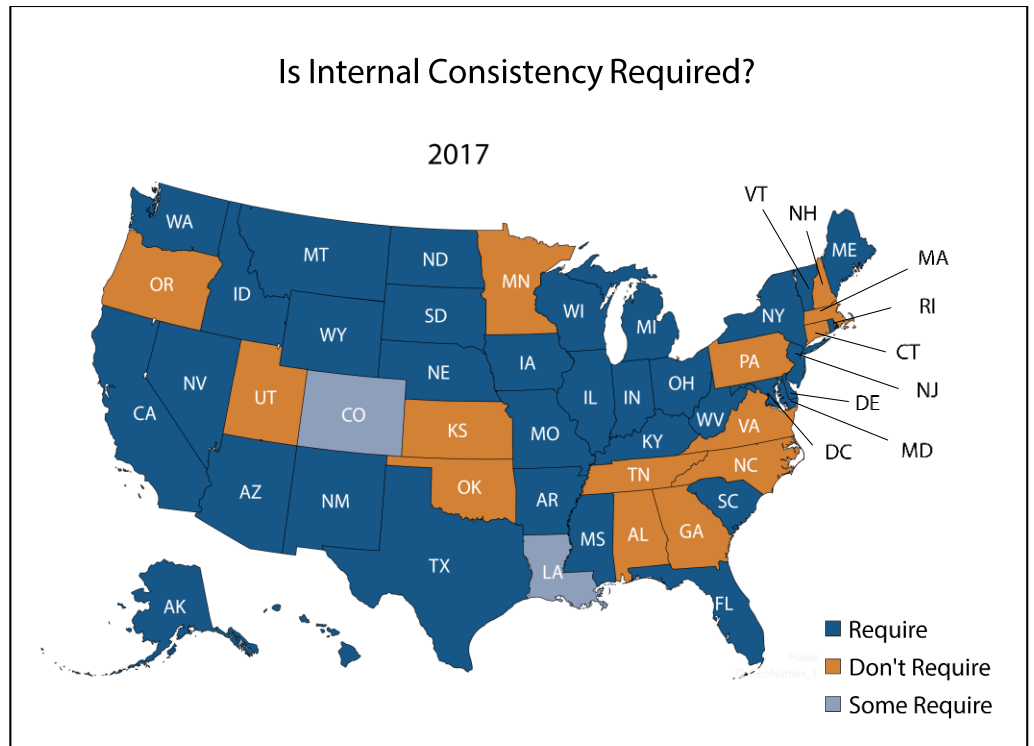
Must the Plan Be Formally Adopted by the Local Legislative Body?

This question addresses the legal issue of whether state law specifies that the city or county legislative body (county board or city council, e.g.) must legally adopt the comprehensive plan to put it into effect. The common alternative is adoption by the planning commission.



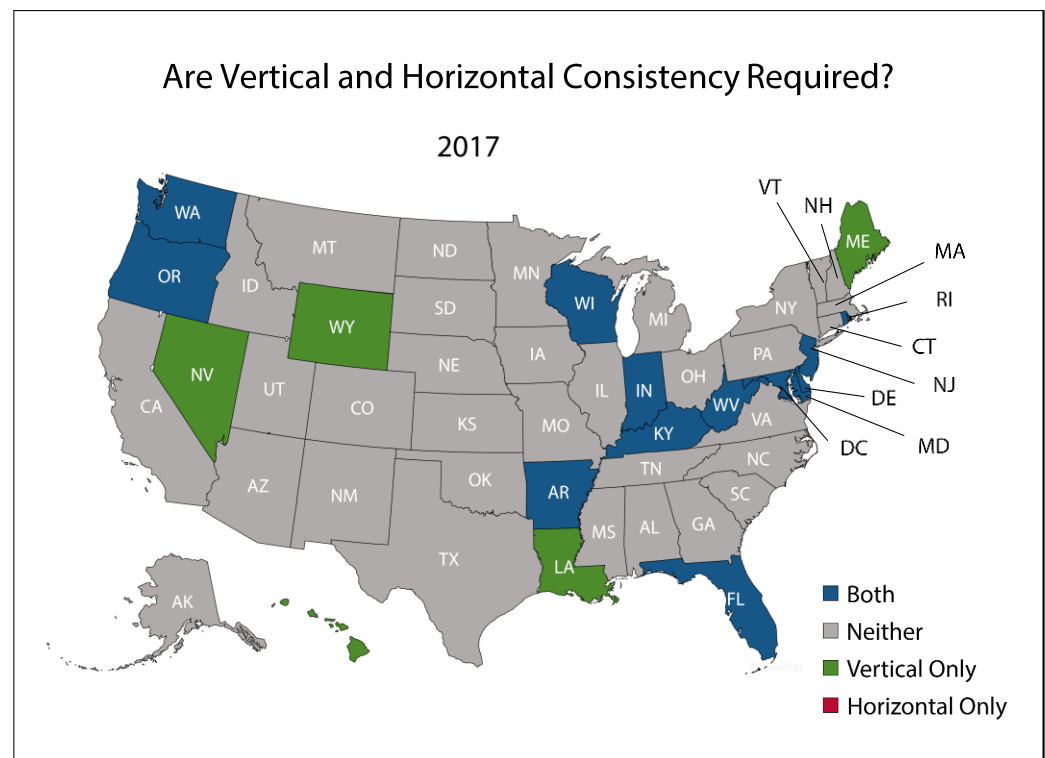
Is Internal Consistency Required?

Internal consistency refers to the requirement that zoning be based upon and consistent with the legally adopted comprehensive plan.



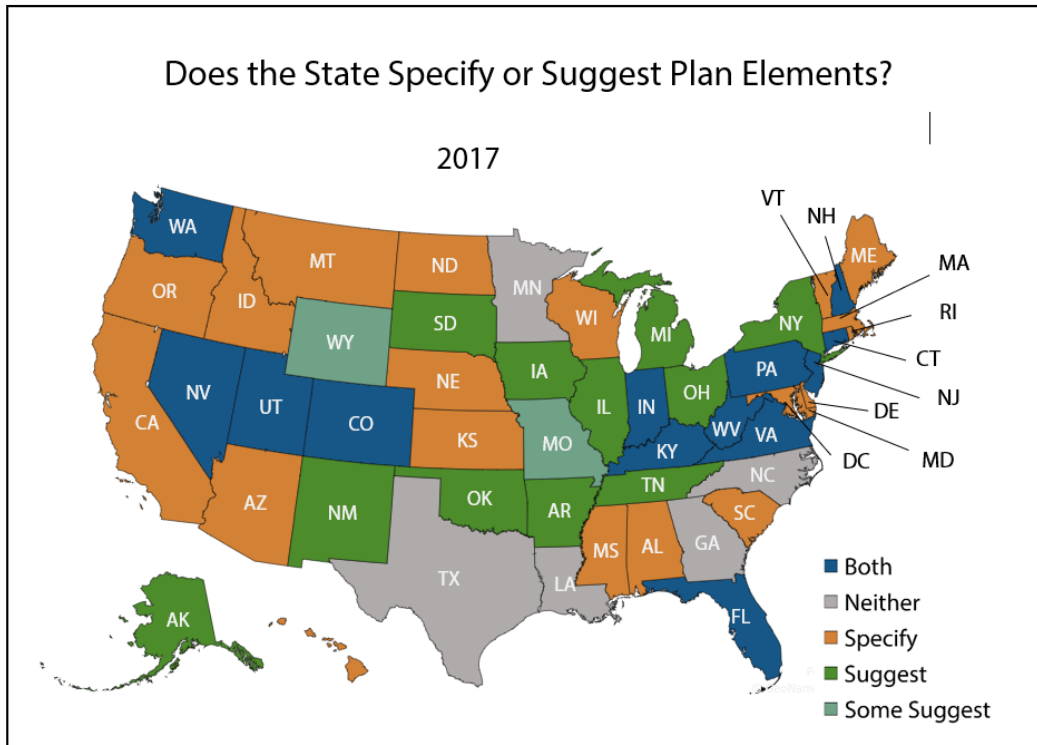
Are Vertical and Horizontal Consistency Required?

Vertical consistency refers to any requirement that the local comprehensive plan of a city or county not conflict with plans of higher levels of government within the state. For example, a city plan must be consistent with the provisions of county, regional, or statewide plans. Horizontal consistency means that the state requires intergovernmental coordination among neighboring jurisdictions so that, for example, adjoining municipalities may not have conflicting provisions in their own local plans and must coordinate their planning to avoid this outcome.



Does the State Specify or Suggest Elements of Local Plans?

Some states clearly specify in their statutes a list of elements that must be included in the local comprehensive plan. In some cases, this list details what each of those elements must contain; other states merely list the topics without being more specific.



State Planning Legislation Related to Hazards

Which Jurisdictions Must Plan for Hazards?

State	Borough	County	City	Municipality	Parish	Town	Township	Village
Arkansas		✓						
Arizona		✓						
California		✓	✓					
Colorado		✓		✓				
Florida		✓		✓				
Iowa		✓	✓					
Idaho		✓	✓	✓		✓	✓	✓
Illinois		✓		✓				
Indiana		✓	✓					
Kentucky		✓	✓					
Maine				✓				
Maryland		✓		✓				

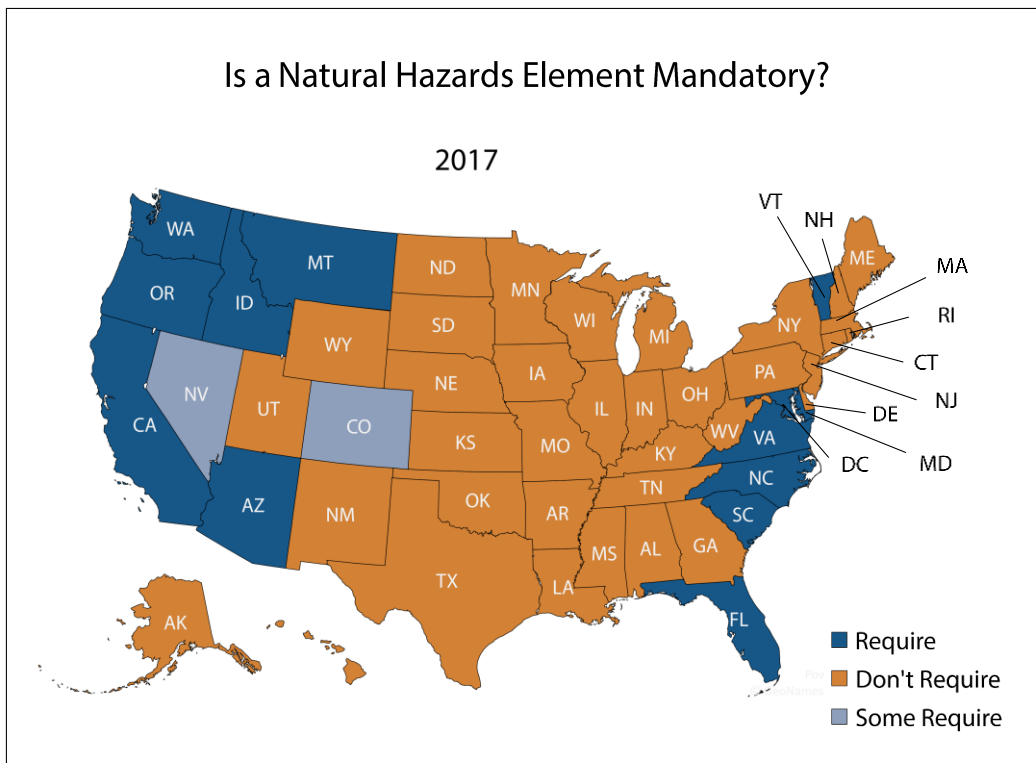
Michigan		✓		✓		✓	
New Jersey	✓	✓	✓	✓		✓	✓
Nevada		✓	✓				
Oregon		✓	✓				
Rhode Island		✓				✓	
Utah		✓		✓			
Vermont		✓	✓	✓		✓	✓
Washington		✓	✓			✓	

* As definitions of these entities vary with state law, individual state laws must be consulted for the precise meaning of the term in each case.

Notes	
Virginia	Coastal resource management: Any localities in Tidewater Virginia. Sea-level rise and flooding: any locality in the Hampton Roads Planning District Commission

Is a Hazards Element Mandatory?

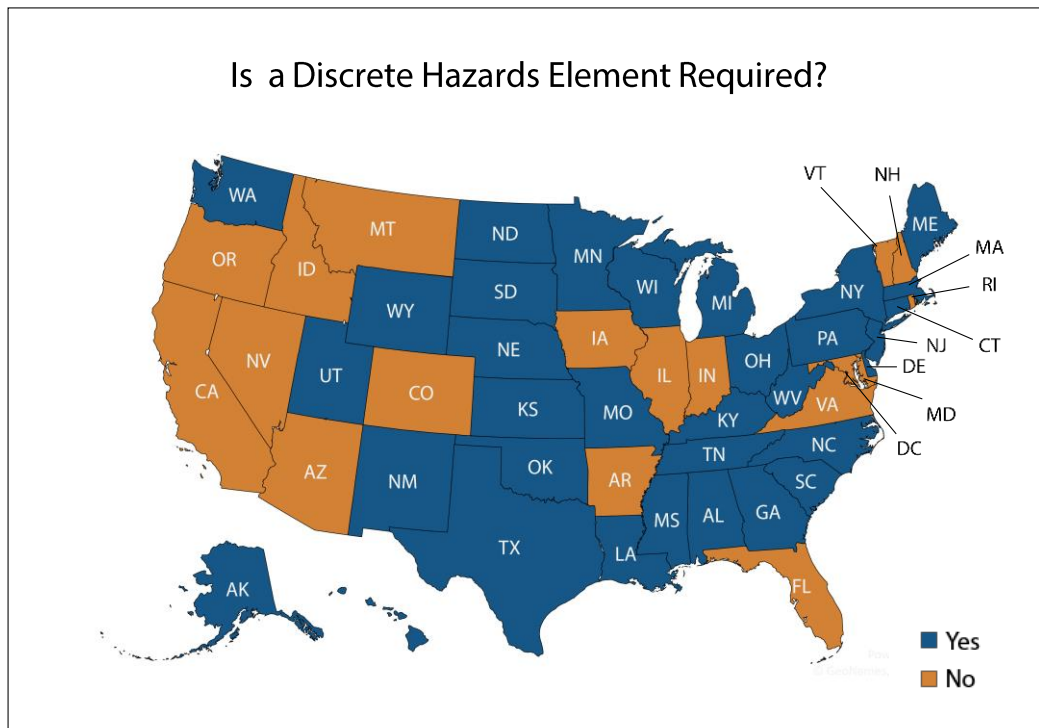
The question is whether a natural hazards element is specifically required as part of the local comprehensive plan. Generally, it stands to reason that, if the state does not require a plan, it also does not require a hazards element, but it is possible for a state to require such an element if the community develops a plan in the first place.



Notes	
Colorado	No for counties; Yes for municipalities
Nevada	Yes for counties of more than 700,000 population

Is a Discrete Hazards Element Required?

The issue addressed in this question is whether the element addressing natural hazards in the local comprehensive plan, whether optional or required, is spelled out as a separate element from all others, or whether natural hazards are simply incorporated as a consideration in some other element, such as a land-use or environmental element. The element need not be labeled “hazards” for a “yes” to apply, but the contents of the element must clearly be focused on one or more natural hazards, ideally including mitigation in some form. However, a cursory or passing reference to floodplains (or other hazards) as part of other elements does not count as discrete hazard element.



Notes	
Delaware	Floodplains are mentioned as component that should be mapped as environmental areas as part of conservation element.
Maine	According to Chapter 208: Comprehensive Plan Review Criteria Rule, the required "Marine Resources" topic area states that coastal communities must address the state coastal management policies, including "d. To discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety"; however, no other hazards-specific requirements (analyses, conditions & trends, policies, or strategies) are listed for this topic area.

What is the Geographic Coverage of Natural Hazards Element Requirements?

This describes the geographic extent of any requirements concerning the inclusion of a natural hazards element in local comprehensive plans. Due to the nature of some hazards, some states specify limited areas in which the requirements apply, such as coastal or mountainous areas.

State	All	Coastal
Arkansas	✓	
Arizona	✓	
California	✓	
Colorado	✓	
Florida		✓
Iowa	✓	
Idaho	✓	
Illinois	✓	
Indiana	✓	
Kentucky	✓	
Maryland	✓	
Montana	✓	
Nevada	✓	
New Hampshire	✓	
Oregon	✓	
Rhode Island	✓	
Virginia	✓	

Notes	
Indiana	All except for townships.
Virginia	Coastal resource management; Coastal resource management: any localities in Tidewater Virginia. Sea-level rise and flooding: any locality in the Hampton Roads Planning District Commission.

Which Hazards Are Specified?

Planning statutes can either require or specify a natural hazards element generally, without identifying the particular hazards that must be addressed, or they can specify particular hazards that must be addressed in the element. This column indicates those cases where the statutes specify particular hazards that the comprehensive plan must address.

State	All Hazards Generally	Coastal Storm	Earthquake	Floodplain	Hurricane	Drought	Geologic hazard generally	Slope and soil stability	Tornado	Wildfire	Tsunami
Arkansas				✓							
Arizona							✓				
California			✓	✓			✓	✓		✓	✓
Colorado				✓			✓	✓		✓	
Florida		✓		✓				✓			
Iowa	✓			✓							
Idaho			✓	✓				✓			
Illinois				✓							
Indiana				✓							
Kentucky				✓							
Maine				✓							
Maryland				✓				✓			
Michigan				✓							
Montana				✓						✓	
Nevada			✓	✓				✓		✓	
New Hampshire	✓	✓		✓							
New Jersey	✓			✓							
Oregon				✓			✓				
Pennsylvania	✓			✓				✓			
Rhode Island		✓		✓	✓	✓					
Utah				✓			✓	✓			
Vermont				✓							
Virginia		✓		✓							
Washington				✓			✓				
West Virginia				✓							

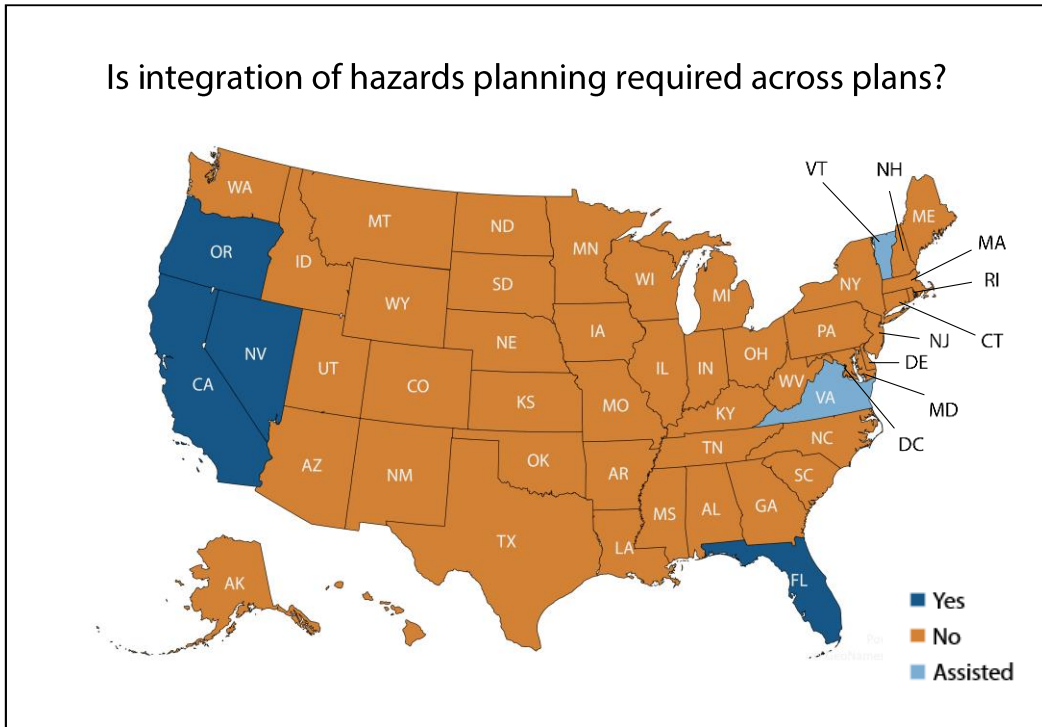
Is Post-Disaster Recovery Addressed in Local Comprehensive Plans?

Although still exceedingly rare, the requirement of a plan for post-disaster recovery as part of the hazard mitigation plan in local comprehensive plans is an important indicator of a state planning law's seriousness in addressing natural hazards concerns.

Presently no states require that post-disaster recovery be addressed in a local comprehensive plan.

Is Integration of Hazards Planning Required Across Plans?

Legislation aimed at encouraging or requiring integration of hazards planning across plans, for example, local hazard mitigation plan, hazard-related element of comprehensive plan, etc. Assisted means that words such as "may" instead of "must" or "shall" are used in the statutes, meaning integration of hazards planning across plans is recommended, but not required.



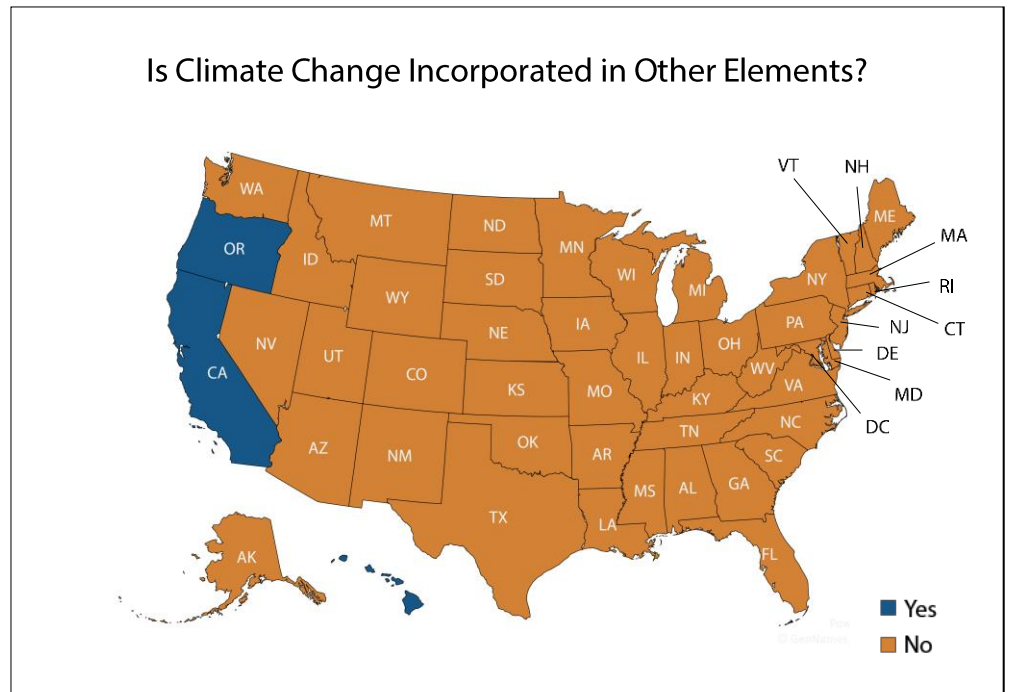
Is a Discrete Climate Change Element Required?

The issue addressed in this question is whether the element addressing climate change in the local comprehensive plan, whether optional or required, is spelled out as a separate element from all others. The response is "yes" if climate change is its own element in comprehensive plan. "No" if climate change is not its own element in the comprehensive plan. Other terms such as "sea level rise" are not accepted.

No states require a discrete climate change element.

Is Climate Change Incorporated in Other Elements?

Legislation aimed at encouraging or requiring comprehensive plans to address climate change in some manner. This may include consequences for adaptation, exacerbation of existing hazards, and other questions that are a realistic outgrowth of regional climate change projections.



Is Resiliency of Local Communities Addressed?

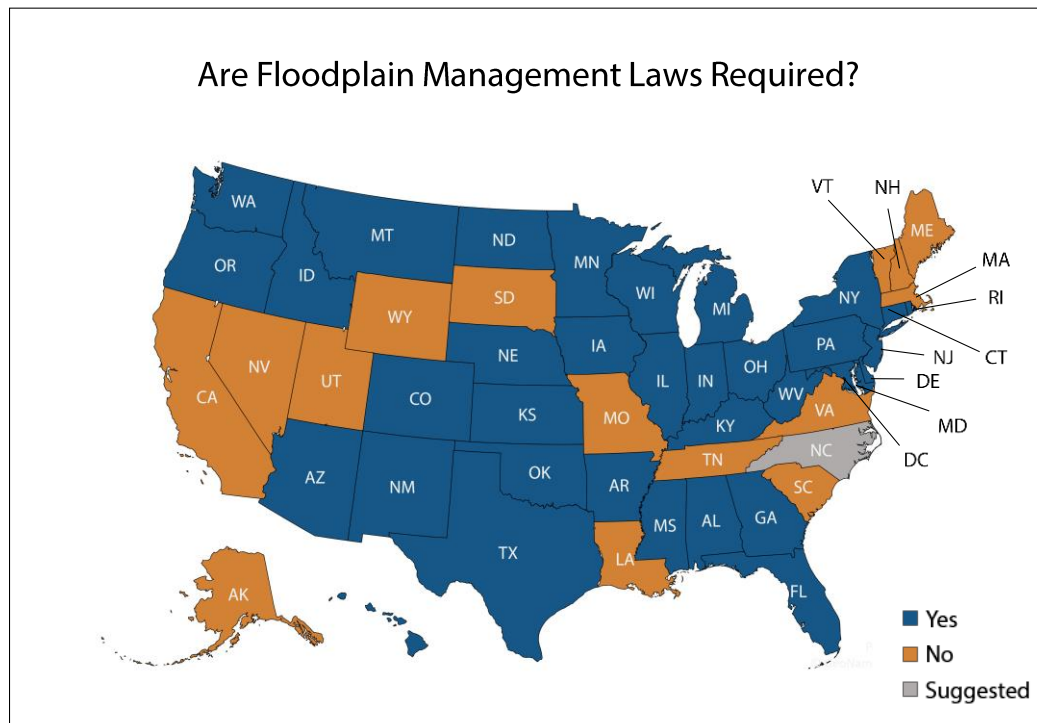
Legislation aimed at enhancing the resiliency² of local communities through the comprehensive plan.



² Resiliency is the ability to prepare and plan for, absorb, recover from, and more successfully adapt to adverse events. (National Academy of Sciences 2012)

Are Floodplain Management Laws Required?

This question relates to floodplain management legislation such as [No Adverse Impact Standards](#), restriction of construction/development in floodplain areas, etc., included in the code and if restriction of construction/development in floodplain areas is mandated. If the statutes mention that the planning or development/ construction “must” or “shall” be as per the National Flood Insurance Program requirement then the answer to the question is “Required.” It is “Suggested” if restriction of construction/development in floodplain areas is only mentioned and not mandated. If the statutes mention that the planning or development or construction “may” be as per the National Flood Insurance Program requirement then the answer to the question is “Suggested.”



Which International Code Council Building Codes Are Mandated?

This question asks whether the state mandates the [International Building Code \(IBC\)](#), [International Residential Code \(IRC\)](#), [International Existing Building Code \(IEBC\)](#), and/or [International Wildland-Urban Interface Code \(IWUIC\)](#) building code standards, which, according to FEMA (Building Science and [Building Code Resources](#)) meet or exceed minimum standards in response to flood, wind, seismic, and wildfire hazards.

State	International Building Code	International Residential Code	International Existing Building Code	Wildland-Urban Interface Code
Alabama	2009	2006		
Alaska	2012 (partial)			
Arkansas	2012	2012		
California	2015			
Connecticut	2012	2012	2012	
Florida	2017	2017	2017	
Georgia	Latest	Latest	Latest	
Hawaii	2012	2012		
Iowa	2015	2015	2015	
Idaho	2015 (with revisions)	2012 (with revisions)	2015 (with revisions)	
Illinois	Latest	Latest	Latest	
Indiana	2012	2003		
Kentucky	2012	2012		
Louisiana	Latest	Latest	Latest	
Maine	2015	2005	2015	
Massachusetts	2015	2015	2015	
Maryland	Latest	Latest		
Michigan	2012	2012	2012	
Minnesota	2012	2012	2012	
Mississippi	One of the last three adopted editions with amendments	One of the last three adopted editions with amendments		
Montana	2012	2012	2012	2012
Nebraska	2012	2012	2012	
New Hampshire	2009	2009	2009	
New Jersey	2015	2015		
New York	2015	2015	2015	
New Mexico	2015	2015	2015	
North Carolina	2009	2009	2012	
North Dakota	2015	2015		
Ohio	2015	2009		
Oklahoma	2015	2015	2015	
Oregon	2012	2015		
Pennsylvania	2015	2015	2015	2009
Rhode Island	2012	2012		
South Carolina	2015	2015		
South Dakota	2015			
Tennessee	2012	2009*	2012	
Texas	2003	2001		
Utah	2015	2015	2015	
Vermont	2015			
Virginia	2012	2012	2012	
Washington	2015	2015		
West Virginia	2015	2015	2015	
Wyoming	2015	2015		

*State's list of adopted ICC codes includes IBC and IEBC and not IRC, but adoption matrix indicates adoption of 2009 IRC on 6/27/2010.

Conclusion

We hope that posing and answering these additional, more specific questions about state planning laws and the degree to which they foster the integration of natural hazards planning into local comprehensive plans will further public consideration of these issues. In any community where natural hazards of any sort exist—flooding, earthquakes, hurricanes, wind storms, wildfires, volcanoes, landslides, etc.—it can respectfully be suggested that no planning is truly comprehensive until mitigation of those hazards is addressed, and a plan for recovery from major natural disasters is in place.

We welcome your feedback! If you have a comment or a suggestion about the content of this document, please contact us at LegislativeSurvey@planning.org.

References

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The National Academies. 2012. *Disaster Resilience: A National Imperative.* Available at http://resilience.abag.ca.gov/wp-content/documents/resilience/toolkit/Disaster%20Resilience_A%20National%20Imperative.pdf

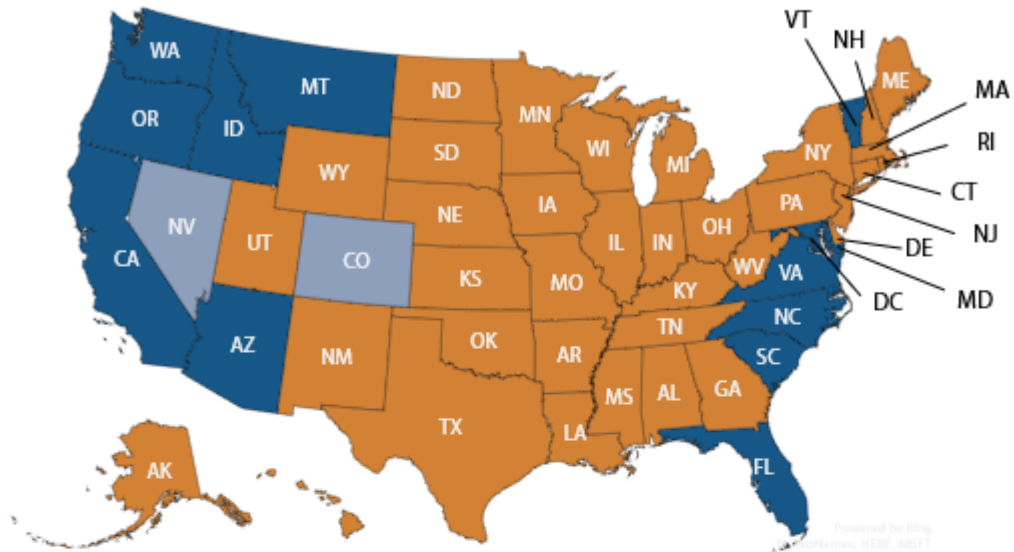
Appendices

2017 State-Specific Land-use and Natural Hazards Planning Laws

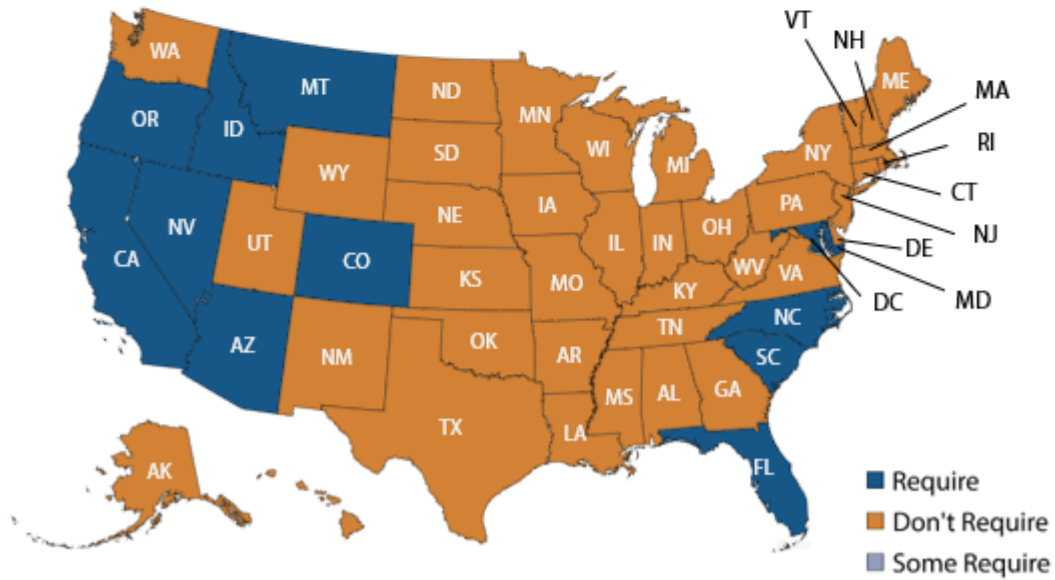
<u>Alabama</u>	<u>Louisiana</u>	<u>Ohio</u>
<u>Alaska</u>	<u>Maine</u>	<u>Oklahoma</u>
<u>Arizona</u>	<u>Maryland</u>	<u>Oregon</u>
<u>Arkansas</u>	<u>Massachusetts</u>	<u>Pennsylvania</u>
<u>California</u>	<u>Michigan</u>	<u>Rhode Island</u>
<u>Colorado</u>	<u>Minnesota</u>	<u>South Carolina</u>
<u>Connecticut</u>	<u>Mississippi</u>	<u>South Dakota</u>
<u>Delaware</u>	<u>Missouri</u>	<u>Tennessee</u>
<u>Florida</u>	<u>Montana</u>	<u>Texas</u>
<u>Georgia</u>	<u>Nebraska</u>	<u>Utah</u>
<u>Hawaii</u>	<u>Nevada</u>	<u>Vermont</u>
<u>Idaho</u>	<u>New Hampshire</u>	<u>Virginia</u>
<u>Illinois</u>	<u>New Jersey</u>	<u>Washington</u>
<u>Indiana</u>	<u>New Mexico</u>	<u>West Virginia</u>
<u>Iowa</u>	<u>New York</u>	<u>Wisconsin</u>
<u>Kansas</u>	<u>North Carolina</u>	<u>Wyoming</u>
<u>Kentucky</u>	<u>North Dakota</u>	

Natural Hazards Element

2017



2009



The question is whether a natural hazards element is specifically required as part of the local comprehensive plan. Generally, it stands to reason that, if the state does not require a plan, it also does not require a hazards element, but it is possible for a state to require such an element if the community develops a plan in the first place.

Methodology

To begin, the researcher visited each state’s legislative website and identified which chapters of the state legislation were likely to contain the relevant statutes. The researcher then opened the relevant statutes in [Justia](#), a website providing free and navigable legal information, to more closely analyze the data. Because the answers were to be collected and placed in a database, it was also crucial to develop a standardized “answering” system for the researcher to use. To accommodate the nuances of each state’s legislation, comments from the research and/or direct quotes from legislation are kept in a separate note attached to each data entry in a matrix where data is stored, allowing for qualitative differences to be maintained, while the simple “answer” or categorization allows for important – and *easy* – comparison between states. Then, when the researcher finished reviewing a state’s legislation and collected all the required answers, the next step was engaging with APA Chapter Presidents and Legislative Liaisons to discuss the statutes. Finally, the last step was to decide on how the collected information should be presented and disseminated. The main goal for this step was to make sure the information is easily understandable, to the point, accessible, and replicable. With the information presented in simplified form, planners can quickly see how their states measure up to others, and if desired, they can also quickly access and reference the relevant statutes.

Legal Disclaimer: The information provided here is for planning purposes only. It should not be considered or use as legal advice. Please be aware that the statutes might have been amended, rescinded, or newly adopted since the publication of this information.