



# 2018-2019 LEGISLATIVE PROGRAM

American Planning Association  
Texas Chapter

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## Introduction

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Planners across the state are well aware of the fact that many significant decisions affecting Texas cities are made by the Texas Legislature, not by municipal officials or our own employers.

During the 2017 sessions, more than 8,000 bills or significant resolutions were introduced (a record); more than 1,300 of them would have affected Texas cities and planners in some substantial way. A new record was set for most bills pre-filed on the first day. APATX tracked 401 bills related to planning and development. 43 of those were either signed by the Governor or not vetoed to become law on September 1, 2017. Fourteen were bad for cities and twelve were good. The remainder were neutral and not determined to be negative.

There is no reason to believe that the workload of the 2019 session will be any lighter; it may be greater. And for better or worse, planners will have to live with all the laws that may be approved by the Legislature. Thus, the American Planning Association Texas Chapter must make every effort to assure that detrimental bills are defeated and beneficial bills are passed.

## Relationship to Texas Municipal League

APATX is an affiliate member of the Texas Municipal League. Through this affiliation, APATX is subject to the following:

- An affiliate may not adopt or advance any policy position, legislative or otherwise, which is contrary to TML's policy position. Before an affiliate adopts or advances any position, it must take actions to ensure that such position is not contrary to TML policy.
- An affiliate may, when requested or at its own initiative, communicate its priority legislative issues to TML at any time, so that those issues can become part of the deliberations of the TML legislative policy committees. However, each affiliate that in any manner adopts a legislative program or a list of legislative priorities, by action of its officers, board, a committee, or membership, must provide such information to the Executive Director of TML no later than ten days prior to the TML Board meeting that immediately precedes the beginning of a regular legislative session.
- An affiliate should, when requested or at its own initiative, nominate members of its affiliate group to serve on the TML legislative policy committees.
- If an affiliate works for the defeat or passage of any legislation which is not specifically addressed in the TML legislative program, the affiliate shall not use letterhead stationery or other means of communication which state or indicate an affiliation with TML and shall not state that it represents, is represented by, is affiliated with, or is part of the TML. It is the responsibility of the affiliate to ascertain TML's position on any legislation or proposed legislation on which the affiliate wishes to adopt a position. This policy controls, regardless of affiliate guidelines which may seem to be contradictory.
- An affiliate should seek input from the TML staff before the affiliate decides to give an award to any member of the Texas Legislature. An affiliate must inform the TML staff of any decision to give such an award prior to the time the award is given and must provide to TML any press releases or other information concerning the award.

- An affiliate should seek input from the TML staff before the affiliate decides to retain a lobbyist. An affiliate must inform the TML staff of any decision to retain a lobbyist and must provide the lobbyist's name. The affiliate should encourage its lobbyist to regularly communicate with the TML staff.
- An affiliate must immediately inform the TML staff of any decision to make a political contribution and the amount of the contribution to any campaign for a state-level office.

## General Legislative Philosophy

APATX's legislative philosophy is rooted in the AICP Code of Ethics. APATX will oppose any legislation that would erode the authority of Texas cities to govern their own local affairs. Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens' health and safety. They likewise serve as the primary conduit for implementation of best planning practices in the State of Texas. As such, it is considered imperative to preserve authority of cities as the best means of advocating in a manner consistent with the special responsibility of our profession to serve the public interest with compassion for the welfare of all people and, as professionals, to our obligation to act with high integrity.

There is a practical limit to what APATX can accomplish during the legislative session, even with affiliate support of TML. Because both APATX and TML have finite resources and because vast amounts of those resources are necessarily expended in defeating bad legislation, APATX recognizes that it must very carefully select the bills for which it will attempt to find sponsors and seek passage. In considering any legislative initiative, APATX considers:

- Does the initiative have wide applicability to a broad range of cities of various sizes and in various parts of the state?
- Does the initiative address a principle planning value, or is it only indirectly related to planning? If indirect, is the initiative critically important to TML or an allied profession?
- Is this initiative, when compared to others, important enough to be part of APATX's list of priorities?
- Will the initiative be vigorously opposed by strong interest groups and, if so, will APATX members commit to contributing the time and effort necessary to overcome that opposition?
- Is this initiative one that planners, perhaps more than any other group, should and do care about?
- Is the initiative consistent with TML's legislative program?

## Levels of Support

Legislative issues fit into one of four categories of effort. Those categories are:

- Seek Introduction and Passage – APATX will attempt to find a sponsor, will provide testimony, and will otherwise actively pursue passage. Bills in this category are known as “APATX Bills.”
- Support – APATX will attempt to obtain passage of the initiative if it is introduced by some other entity.
- Oppose – APATX will actively attempt to defeat the initiative because it is detrimental to the organization, its general legislative philosophy (particularly in regard to erosion of local self-determination and the authority of cities to implement best planning practices) or the AICP Code of Ethics.
- No Position – APATX will take no action.

## Legislative Priorities

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### Opposition to Bad Bills – “First, Do No Harm”

APATX’s highest priority goal for 2018-2019 will be the defeat of legislation deemed detrimental to the organization, its general legislative philosophy or the AICP Code of Ethics. As a practical matter, adoption of this position means that the beneficial bills will be sacrificed, as necessary, in order to kill detrimental bills given the legislative climate.

### The APATX Priority Package

The following represents the primary foci of the American Planning Association Texas Chapter for the 2018-2019 period of legislative activity, in addition to the Legislative Program by Topic provided further below.

1. Defeat any legislation that would erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to cities, especially legislation that would:
  - a. Impose a revenue cap of any type, including a reduced rollback rate, mandatory tax rate ratification elections, lowered rollback petition requirements, limitations on overall city expenditures, exclusion of the new property adjustment in effective rate and rollback rate calculations, or legislation that lowers the rollback rate and gives a city council the option to re-raise the rollback rate. This position should not be viewed as APATX’s support for raising taxes, but instead as recognition that cities are more aware of their financial needs than the State. Cities’ solvency & access to financial resources is critical to furthering the planning profession and its values.
  - b. Erode municipal annexation authority. Counties in Texas, as the next closest level of local government, lack the authority and resources that would further the planning profession and its values. Cities’ abilities to set their boundaries under the existing appropriate due process is best left to those elected leaders closest to the people, and in recognition of the equity issues of the public potentially addressed through annexation.

- c. Provide for state preemption of municipal authority in general. Cities are the level of government closest to the people the planning profession serves, and as such, preservation of their authority is critical to furthering the planning profession and its values.
- d. Expand election requirements for issuance of any city debt, impose a petition/election procedure where none currently exists, or that would otherwise erode the ability of a city to issue debt in any way. This position should not be viewed as APATX's support for such debt, but instead as recognition that cities are more aware of their financial needs than the State. Cities' solvency & access to financial resources is critical to furthering the planning profession and its values.
- e. Erode the authority of a city to be adequately compensated for the use of its rights-of-way and/or erode municipal authority over the management and control of rights-of-way.
- f. Erode municipal authority related to development matters, including with respect to the following issues:
  - i. Annexation
  - ii. Eminent Domain
  - iii. Zoning
  - iv. Regulatory Takings
  - v. Building Codes
  - vi. Tree Preservation
  - vii. Short-Term Rentals

2. Support passage of any legislation that would:

- a. Expand municipal annexation authority.
- b. Generally clarify and enhance the authority of general law cities to enact regulations and restrictions in furtherance of the planning profession and its values.
- c. Clarify the extension of TABC wet status of city to properties following annexation, as current rules and legislation result in confusion and inconsistency.
- d. Clarify the application of regulations pertaining to group living, including group living in support of sober living and group living in support of individuals with disabilities, to address specific issues related to occupant safety, inspection authority, registration, density, neighborhood context considerations and living environment. Examples include group living environments in which rooms are over-occupied or not occupied for their intended purpose, resulting in an unhealthy environment. Potentially, this could be a variation on HB 293 (Johnson) and HB 640 (Phillips).

- e. Reform specific aspects of subdivision platting under Chapter 212 of Local Government Code to provide cities the ability to simplify processes, reduce unnecessary bureaucracy and increase potential efficiency of the platting process. This gives cities more flexibility, removes a mandate, improves the development process for developers & builders, and increases government efficiency. Specifically:
  - i. Elimination of the “four or fewer lots” restriction on delegating approval of minor administrative plats to staff, and clarifying what constitutes “municipal facilities” for the purposes of qualifying a subdivision for this administrative route of processing (LGC Section 212.0065).
  - ii. Elimination of public hearing requirements for replatting without vacating a preceding plat (LGC Section 212.014). Platting is a ministerial function in which if codes are met it MUST be approved. The hearing unnecessarily agitates the public, as their public comment cannot be applied to a discretionary action. Likewise, this should clarify what “amending or removing covenants or restrictions” means in this circumstance. By doing this, barriers to redevelopment of property are removed and preservation of property rights is enhanced.
  - iii. Elimination of the public hearing requirements for residential replats (LGC Section 212.015), for the reasons described above for replatting without vacating a preceding plat. This additionally assists housing affordability, removing a common barrier created by state law.
- 3. Act as an effective educational resource to legislators, legislative staffs, allied professions and TML in furtherance of the planning profession and its values. Specifically:
  - a. Conduct a Planners Day at the Capitol event, coinciding with the 2018 Great Places in Texas awardees and coordinating with TML. Late March to Early April is ideal timing.
  - b. Pursue poster/displays in Capitol and Capitol Extension themed to the positive impact of planners and planning on Texans; recommend theming to the Great Places in Texas program with information on how the place and project benefited from planning and how Texans benefited from the project.
  - c. Target outreach to representatives and senators of districts containing Great Places, with special commemorative items and photo opportunities. Representatives and Senators love anything themed to something in their particular district, especially graphics and photos. Consider use of Chet Garner, and schedule with representatives and senators early on to ensure availability.

## Appendix: Detailed Legislative Program by Topic

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The following is a list of detailed positions expanding upon the APATX Priority Package described above in order to provide additional clarity and direction, approved by the APATX Board of Directors pertaining to topical legislation. These particular topic areas represent application of the APATX Priority Package as they may likely appear in legislation.

### Affordable Housing

Support legislation and additional appropriations for affordable and workforce housing that allows for the expansion and preservation of diverse, affordable homes in cities.

Oppose legislation that would restrict tools available to cities to address affordable housing challenges.

Take no position, but monitor proposed reforms to the Low Income Housing Tax Credit Program, and take positions to support or oppose in a manner consistent with planning values and priorities as described and referenced in this policy.

### Annexation and Extraterritorial Jurisdiction

Support legislation granting general law cities additional authority to annex areas wholly surrounded by cities.

Support legislation that would expand annexation authority for all cities.

Oppose legislation that would erode municipal authority in the extraterritorial jurisdiction.

### Billboards and Signage

Oppose legislation that would erode municipal authority over billboards or that would place any unfunded mandate on cities relating to billboards.

### Building Codes, Expediting and Contractor Licensing

Support legislation authorizing a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings.

Oppose legislation that would erode a city's ability to make amendments to model building codes, including procedural steps to hamper such amendments.

Oppose legislation that would further restrict a city's ability to impose building fees.

Oppose legislation mandating permit approvals, expedited permits and other similar efforts leading to automatic approval of potentially substandard development & construction.

Oppose legislation removing municipal authority and registration pertaining to contractor trades.

### Comprehensive Planning, Property Rights, Zoning and Vesting

Support legislation making beneficial changes to the permit vesting statute in favor of cities (Chapter 245 of Local Government Code).

Oppose legislation that would erode municipal comprehensive planning and zoning authority, or that would modify existing procedures in any detrimental way.

Oppose legislation that would restrict a city's ability to adopt or amend zoning regulations, or vest or otherwise create a property right in a zoning classification.

Oppose legislation that would further erode a city's ability to regulate religious or charitable organizations.

Oppose legislation regarding permit vesting that would adversely affect cities, including the vesting of any regulation put in place following transfer of property ownership.

Oppose legislation that would erode the ability of a city to amortize nonconforming uses, including those in a flood plain.

### Economic Development

Support legislation that would allow land to be used, transferred, conveyed or swapped in Chapter 380 economic development agreements.

Support legislation appropriating funds to support the role public libraries play in the workforce and economic development in local communities.

Support legislation that ensures libraries are included as eligible partners and beneficiaries in any strategy or guideline aimed at constructing or improving public spaces.

Oppose legislation that would erode a city's incentive options to enhance its economic development efforts to promote retention and expansion of existing retailers, restaurants, developers, commercial businesses and primary employers, and to attract new business.

### Emergency Services Districts

Support legislation authorizing cities, in relation to annexation, planned annexation, voluntary annexation, or negotiated annexation, to replace some or all emergency services district (ESD) sales taxes in an area with city sales taxes, provided an ESD's existing sales tax debt is proportionately and reasonably provided for in some manner.

Support legislation that would permit a municipal development district's sales tax, notwithstanding a competing emergency services district (ESD) sales tax, to apply in the extraterritorial jurisdiction, as current law allows, provided an ESD's existing sales tax debt is proportionately and reasonably provided for in some manner.

Support legislation allowing cities to remove themselves from an ESD if the city is capable of providing services to the area.

Support legislation requiring city council approval for an ESD to expand into a city's corporate limits or ETJ, or for the establishment of an ESD sales tax in same.

### Eminent Domain

Oppose legislation that would further erode a city's ability to condemn property for public use.

### Historic Preservation

Oppose legislation that restricts historic zoning, accelerates demolition, or otherwise imposes additional restrictions on the formation, implementation and administration of local historic districts.

### Impact Fees and Similar Exactions

Oppose legislation that would reduce municipal authority to require exactions related to and required by new development, or that would erode the authority of cities to adopt and enforcement minimum development standards.

Oppose legislation that would erode municipal authority over impact fees or that would exempt any entity from paying municipal impact fees.

### Manufactured Homes

Oppose legislation that would limit non-conforming regulation enforcement, prohibit regulation or otherwise seek to preempt municipal authority.

### Parks

Oppose legislation that would be detrimental to parks, recreation, open space, trails and tourism.

Support legislation authorizing electric utilities to allow cities to build and operate hike and bike trails and recreational amenities on land and easements owned and occupied by an electric utility with the limitation of liability applicable to electric utilities in Chapter 75, Texas Civil Practice and Remedies Code.

Support legislation that would protect and enhance investments in all public parks and open space, including Constitutional dedication of the full amount of Sporting Good Sales Tax, opposition to tax-free weekend on sporting goods, opposition to appropriation riders to the Texas Parks & Wildlife Department local park grant programs, support for conservation of open space and making public lands accessible for public use, support for tree preservation.

Support Federal funding related to the Land Water Conservation Fund, Sport Fish Restoration Boat Access program, and U.S. Department of Transportation Recreation Trails program.

Support conservation of water and natural resources and rights and access to recreational amenities.

### Payday Lending

Support legislation to prevent further exploitative payday and auto title lending practices.

### Short-Term Rentals

Oppose legislation that would erode municipal authority to regulate short-term rentals.

### Special Districts

Oppose legislation that would allow special districts to form in a city or its extraterritorial jurisdiction without the city's permission, or that would impose additional requirements on cities relating to special districts.

### State Budget

Support legislation providing a fair and equitable distribution of the sporting good sales tax revenues for state and local parks.

Support creation of a constitutional dedication of sporting goods sales tax revenues for use in state and local parks that would directly benefit parks, recreation, open space, trails and tourism.

Support pass through of federal dollars used for parks, recreation, open space, trails, and tourism from any of the following, but not limited to, the US Department of the Interior Land and Water Conservation Fund, the Sport Fish Restoration Boat Access program and the US Department of Transportation Recreation Trails Program.

Support allocation directly benefit parks, recreation, open space, trails, tourism, health and wellness (i.e. utility corridors and mobility).

Support providing additional funding to TxDOT for transportation projects that would benefit cities, so long as existing funding formulas are followed.

Support providing local, state and federal transportation funding for rail as one component of transportation infrastructure.

Support providing additional funding for transportation mobility projects and increased local control over those projects.

Oppose legislation that would limit or eliminate the current flexibility of the Major Events Reimbursement Program as a tool for cities to attract or host major events and conventions.

Support legislation requiring the Legislative Budget Board to include in all fiscal notes attached to legislation the estimated cost of unfunded mandates for local governments.

## Taxes

Support legislation amending Chapter 327 of the Texas Tax Code to authorize the collection of municipal sales and use taxes for street maintenance for an indefinite, or at least extended, term instead of the four years provided by current law.

Support legislation resulting in mandatory disclosure of real estate sales prices.

Support legislation allowing a council-option city homestead exemption, expressed as a percentage or flat-dollar amount.

Oppose legislation that would erode the concept that appraisals must reflect the true market value of property.

Oppose legislation that would impose new property tax exemptions that substantially erode the tax base.

Oppose legislation that would impose a property tax freeze that can be implemented by any mechanism other than council action.

Oppose legislation resulting in new mandatory homestead exemptions or exemption increases.

Oppose legislation imposing any sales tax exemption that would substantially erode the tax base.

Oppose legislation that would expand the sales tax base without fully benefitting the city tax base.

Oppose legislation that would alter the city share or the calculation or sourcing of city sales taxes.

Support legislation resulting in beneficial amendments to the equity appraisal statute.

Oppose legislation that would negatively expand appraisal caps.

## Transportation

Support legislation that would add a tenth criterion of "location of an emergency services station" to the state criteria related to the proper placement of a traffic signal on a state highway.

Support legislation allowing for greater flexibility by cities to fund local transportation projects; amend or otherwise modify state law to help cities fund transportation projects; or provide municipalities with additional funding options and resources to address transportation needs that the state and federal governments are unable or unwilling to address.

Support legislation increasing municipal authority over TxDOT logo signs.

Oppose legislation that would erode or preempt city regulations governing transportation network companies and licensing of their drivers.

Oppose legislation that would increase the permissible size or weight of vehicles under state law.

Oppose legislation that would limit tools or put in place restrictions impairing the development of alternative means of transportation and mass transit, including commuter rail, light rail and high-speed rail.

### Tree Preservation

Oppose legislation that would further erode municipal authority in relation to tree preservation requirements.

### Utilities

Oppose legislation that would erode local control or reduce municipal ownership or control over effluent and water reuse projects.

### Wireless Facilities

Oppose legislation that would further erode a city's ability to regulate wireless and cellular facilities, including small cellular network deployment.