



## American Planning Association

### Texas Chapter

Creating Great Communities for All

*The American Planning Association's Texas Chapter and its 2,400 members—community leaders, private developers, design professionals, and local officials—work with the private and public sectors in communities throughout Texas. We use our expertise and innovation to shape livable and sustainable Texas communities that reflect the character and values of each local city, town or rural area.*

## 2023 APATX Legislative Policy Priorities

The Texas Chapter of the American Planning Association (APA Texas or APATX) has identified these top five priorities for the 88<sup>th</sup> Session of the Texas Legislature. These priorities are based on the experience and insights of the organization's public and private private-sector members, who use their expertise and innovation to shape livable and resilient Texas communities reflecting the character and values of each local city, town or rural area. Online surveys of our membership in 2020 helped develop the priorities described here. Please contact the APA Texas Advocacy Committee for more detail on specific topics.

### 1. Flexibility to Support Growth in Diverse Communities

Our members work throughout Texas in vastly different communities, from major cities with millions of residents to small towns with fewer than 5,000.

These Texas communities all want to remain economically successful and to offer their residents a high quality of life. But they are experiencing vastly different pressures. Forty-six percent of survey respondents say that, over the past five to ten years, growth has changed the character of their communities. Others describe rapid growth problems, economic stagnation, boom-and-bust cycles, and even loss of population.

Texans, neighborhoods, and businesses in each community face different challenges and need the right tools and flexibility to apply them to suit local needs. Our members tell us they frequently use subdivision (platting), zoning (rezoning), and citywide/regional comprehensive or strategic plans to keep their communities thriving.

Many of the regulations that are used at the local levels are issue-specific. They have been developed to address specific pressures that are felt in communities by the local residents and/or business owners.

**APA TEXAS SUPPORTS EFFORTS TO ENSURE THAT THE FULL RANGE OF PLANNING TOOLS ARE AVAILABLE TO TEXAS COMMUNITIES' RESIDENTS, PROPERTY OWNERS, AND THEIR ELECTED AND APPOINTED LEADERS.**

**APA Texas supports efforts to ensure that the full range of planning tools are available to Texas communities' residents, property owners, and their elected and appointed leaders.** Since some aspects of these tools are critical to communities facing specific challenges, APA Texas also supports additional efforts to ensure that particular community-planning techniques are available where they are most appropriate to achieve a community's desired growth and character. Flexibility at the local level of governance is essential for these communities to continue to grow and thrive.

## 2. Building Code Mandates (HB 2439)

In the 86<sup>th</sup> Session, HB 2439 created a state-mandated building code in response to a perceived “monopoly” by brick companies for exterior building materials. This bill has had unintended consequences that negatively affected Texans’ health, safety, and quality of life, as well as the assurances developers look for when they bring economic development to Texas. Developers of high-quality projects prefer to invest in communities that manage signage, landscaping, and the appearance of buildings. Most large Texas developers exceed the development standards of cities and prefer other developments at the entrances to their projects be similar in quality.

Because of this bill, Texans and their locally elected officials can no longer determine the building materials best suited for their communities. Using materials that are not appropriate to the region can lead to increased maintenance costs and even make structures more vulnerable to natural hazards. Developers cannot rely on cities to enforce design standards. In the past, courts have required municipalities to issue permits for materials that meet local ordinances, even though they violate deed restrictions. The new statutes force cities to permit materials like aluminum or corrugated sheet metal siding, despite neighborhood covenants and restrictions.

APA TEXAS SUPPORTS LEGISLATION THAT  
ALLOWS CITIES TO MEET DEVELOPER,  
RESIDENT AND PROPERTY OWNER  
EXPECTATIONS FOR COMMUNITY  
CHARACTER.

The bill also affects other non-exterior building standards, including HVAC systems, and allows aluminum wiring and a plastic gas pipe that most cities and fire marshals prohibit for safety reasons.

**APA Texas supports legislation that allows cities to meet developer, resident and property owner expectations for community character** by (a) requiring reasonable exterior materials (not just brick) that maintain health, safety, and property value; (b) following current national and international standards for all building materials used in their community; and (c) making local amendments about building code materials to maintain the character, property value, safety and economic vitality of identified districts within their community.

## 3. Subdivision Platting

Nationwide, platting ensures lots are buildable, with adequate water, wastewater, paved streets, and flood protection and that the impact of new development on infrastructure systems is manageable. Over 58% of APA Texas members said this is a frequently used tool to manage growth. Some aspects of HB 3167, passed in the 86<sup>th</sup> Session, are beneficial to both cities and the development community. The reduction of multiple plan reviews and multiple approvals required with new and additional conditions are examples.

However, other provisions have severely impacted development in Texas. HB 3167 set mandatory “30-day” deadlines for plat and engineering plan approval. Though it had good intentions for streamlining development, it became harder for cities to work with developers, counties, special districts, and TXDOT. Necessary studies to ensure safe drinking water, adequate roads, and protection from flooding, normally completed and approved during the development process, are now required before plat submission. Flexibility to refine plats as they go through the process—an approach that benefits developers more than cities—has been severely curtailed. The applicant can only request one 30-day extension. Most cities have added city council approval requirements to provide additional review time, in response to the statute. In addition, HB 2840 allows the public to speak on any agenda item, turning ministerial plat approvals into controversial “public hearings” pitting neighborhoods against developers and delaying approvals.

Actual experience since the passage of this legislation shows a reduction in the percentages of developments approved within 60 days. Surveys show that before HB 3167, 83% of plats and related studies were approved within this time

frame. After HB 3167, with the reduced flexibility for cities to work with developers, only an estimated 74% have been approved within 60 days.

In our state’s fast-growing areas, counties work with cities to avoid serious risks to property and lives. For example, a significant cause of Houston’s 2020 floods was the design of development upstream in counties that had inadequate review tools. Counties and cities need more statutory flexibility in the ETJ to address the new annexation statutes and areas that will remain under county maintenance.



APA TEXAS SUPPORTS LEGISLATION TO MODIFY THE TIMING REQUIREMENTS PUT IN PLACE BY HB 3167.

The Extraterritorial Jurisdiction (ETJ) statutes require counties and cities to reach agreement and give the platting authority and related development requirements to either the city or the county. However, the new annexation statutes, with a petition process required for involuntary annexation, virtually guarantee that large areas of a city’s ETJ will never be annexed and will always have county maintenance. Cities and counties need to be able to develop “hybrid” subdivision regulations in ETJ’s that are appropriate for suburban development, yet allow improvements that the county can maintain. This will benefit developers, cities and counties if done properly.

**APA Texas supports legislation to modify the timing requirements put in place by HB 3167** and to amend Chapter 212 and 232 of the Texas Local Government Code guaranteeing the right of developers to plat their land within reasonable time frames, subject to reasonable conditions, while making it easier for cities and counties to administratively approve all plats which will streamline the development process and ensure future residents’ safety and the economic value of developed properties.

#### 4. Broadband Access

A major lesson of 2020 is that access to broadband technology is vital to Texans, neighborhoods and businesses in all parts of the state. Broadband plays an essential role in remote learning for students, access to online sales and delivery for businesses, communication with doctors through telemedicine, and real-time information during emergencies.

Significant areas of our state, rural areas and even neighborhoods within our largest cities, do not have this access; and some people in our state may not have the digital literacy skills to use the technology even when available. The future success of the state and the well-being of Texans depend on broadband access. Funding such as the FCC’s Rural Digital Opportunity Fund provides needed resources; implementing these technologies and education or training for users will be critical to the fund’s success.



APA TEXAS SUPPORTS LEGISLATION THAT BRINGS RELIABLE, AFFORDABLE BROADBAND ACCESS TO TEXANS WHEREVER THEY LIVE.

**APA Texas supports legislation that brings reliable, affordable broadband access to Texans wherever they live.** We support initiatives that coordinate broadband access statewide, such as a **dedicated state broadband office, dedicated funding, and mapping that depicts and tracks broadband availability** and capability across the state. We support, and recommend, initiatives streamlining the steps to locate and install broadband infrastructure and simplify tracking broadband performance and gaps.

#### 5. Resilience

In recent years, people and businesses in our state have struggled with challenges that have upended past expectations for business growth, employment, health, safety, and quality of life. Hurricanes, floods, fires, and droughts have taken

Texans' lives, threatened their safety, and damaged their property. The COVID-19 pandemic and related economic downturn led to Texans' lives lost, businesses closed, schooling disrupted, jobs vanished, and access to basic needs, including food and shelter, diminished.

Although the occurrence of natural disasters (shocks) and slow-moving disasters like the pandemic (stresses) will vary year by year, the experiences of recent years emphasize how important it will be for Texans, their businesses, neighborhoods, and communities to become more resilient to a variety of challenges.

The Texas Legislature can support a resilient future for the state in the following ways:

- **Promote a resilient recovery from COVID-19** by providing funding and support for businesses, employees, and self-employed individuals to enhance economic resilience and assist with skills, education, and resources to respond to changes in the economy.
- Protect, expand, and improve the parks, recreation facilities, trails, open spaces, and forests that **support Texans' health and well-being**, whether these are managed by the Texas Parks and Wildlife Department or by local counties, cities, and special districts.
- **Reduce the impacts of flooding** by funding the implementation of the Texas Flood Plan, associated regional Flood Plans, and the Flood Infrastructure Plan.
- **Support local initiatives to preserve or restore natural areas** that protect from flooding, storm surge, erosion, and drought, while improving air quality, and reducing the effects of extreme heat.
- Ensure that statewide **infrastructure meets the needs of Texans even in extreme weather conditions** through systemwide planning, funding, investment and operation.

**APA Texas supports these and other efforts during the 88<sup>th</sup> Session to make Texas a more resilient state so the people and businesses located here can adapt to changing conditions and thrive well into the future.** We stand ready to contribute our members' expertise to solutions that create a better and stronger future for Texas and Texans.

APA TEXAS SUPPORTS EFFORTS TO MAKE TEXAS A MORE RESILIENT STATE SO THE PEOPLE AND BUSINESSES LOCATED HERE CAN ADAPT TO CHANGING CONDITIONS AND THRIVE WELL INTO THE FUTURE.