

2019 Legislative Update

- Upper Midwest Planning Conference
- October 4, 2019; 2-3:30 PM
- Drew Pennington, AICP, APA-Wisconsin
- Thomas Jensen, AICP, APA-Minnesota
- Steven Van Steenhuyse, AICP, APA-Iowa



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Photo Source: mnhs.org



Photo Source: traveliowa.com

Session Agenda

- Introductions
- Wisconsin Legislation & Advocacy Updates (15 mins)
- Minnesota Legislation & Advocacy Updates (15 mins)
- Iowa Legislation & Advocacy Updates (15 mins)
- Report from the Policy & Advocacy Conference in DC
- Audience Q&A (15 minutes)
 - Pre-emption as a solution to exclusionary zoning?
 - Can public sector planners get “political?”

APA-Wisconsin's Increased Advocacy Efforts

- Creation of 2019 Legislative Priorities
 - Protection of local control and property tax fairness
 - Opposition to unfunded mandates (reports)
 - Support for multi-modal transportation & funding
- Inaugural Planner's Day at the Capitol in Madison
 - 14 planners met with 20 different legislators
- Frequent Legislative Updates to members



Advocacy Efforts During the Budget Process

- Ready-to-send letter to state legislators in March urging restoration of eminent domain for paths, trails, sidewalks
- Letter to Joint Committee on Finance urging closure of Dark Store loophole and restoration of eminent domain
 - Unsuccessful, as Committee removed both items from bill
- Letter to Gov. Evers requesting veto of secretive last-minute pre-emption of local control over quarry operations
 - Successful, as quarry pre-emption was vetoed by Gov

Act 9 – State Budget

- 10% increase in General Transportation Aids (GTA)
- 2% increase in Mass Transit operating assistance
- \$75M Multimodal Local Supplement (MLS) Grants
 - Deadline is 12/6/19 – See WisDOT website for details
- NOT INCLUDED
 - No pre-emption of local regulation of quarries
 - No requirement for referendum allowing wheel taxes
 - No changes to levy limits or TIF law
 - No restoration of eminent domain for paths & trails
 - No closure of Dark Store & Walgreen's loopholes

Act 14 – Small Cell/5G Wireless

- Brings WI Statutes into compliance with 2018 FCC ruling
- Defines “Small Wireless Facilities” as ≤ 50 feet in height (or 10% taller than adjacent poles) with antennas ≤ 3 cubic feet
- Prohibits local govts from exclusive agreements in ROW
- Prohibits fees unless applicable to all ROW users
- Authorizes pole replacement for collocation.
- Allows local govts to propose alternative locations that are reasonable, affordable, and available
- Allows local govts to prohibit new poles in historic districts
- Prohibits local govts from prohibiting small cell facilities
- Allows permits to be required, subject to conditions

Small Cell/5G Continued

- Prohibits moratoriums on processing wireless permits
- Allows limited authority to impose design requirements
- Establishes maximum annual rates to be charged for co-location on local government-owned poles
- Restores local zoning authority to impose setbacks on traditional wireless towers!
 - Underlying zoning must allow single-family dwellings by-right
 - Setback is limited to height of proposed tower
 - Note: This was one of APA-WI's 2019 legislative priorities, and we were consulted by the League related to final bill wording
 - Also, see Eco-Site, LLC vs. Town of Cedarburg case decided by Appeals Court in which CUP denial was upheld based upon substantial evidence involving property value decreases

Act 11 – Electric Scooters

- Statewide regulatory structure in traffic laws
- Treats scooters similarly to bikes, however...
- Local governments can restrict or prohibit operation on “any roadway...having a speed limit of more than 25 MPH.”
- Local governments can restrict or prohibit the operation of E scooters “on any sidewalk or bicycle way.”
- In addition, local governments can restrict parking of E scooters and prohibit short-term commercial rental

Housing is THE Hot Topic

- See “Falling Behind” report on the workforce housing shortage by UW-Madison Professor Kurt Paulson, published by WRA
 - Findings presented to Assembly, Senate hearing Oct. 3rd
 - Key recommendations consistent with smart growth principles
 - Recommends pre-emption with respect to missing middle housing, ADUs, lot sizes, multifamily
 - Many tools have been taken away (IZ, Dark Store loophole)
 - Planners find themselves in a pre-emption paradox
 - Recommends gap funding, incentives, and assistance
- See AB318/SB339 creating first time homebuyer tax credit
- Rep. Scott Allen (R-Waukesha) invites all APA-WI members to a hearing on housing issues before the Assembly’s Community Development Committee
 - Wednesday, October 23rd at 10 AM
 - Public Comment allowed by Chairman Allen at our request

Questions/Comments/Discussion

- Contact Info:
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Legislative and Law Committee

Upper Midwest APA Conference Update

October 4, 2019



Minnesota House: Legislative Mini-Session

September 27, 2019

Legislative road trip: House headed to SE Minnesota

By Mike Cook



The Minnesota House of Representatives' first mini-session since 1997 will take place in southeast Minnesota Oct. 2-4.

It's been more than 30 years since the House of Representatives got together as a body in Winona.

The town along the Mississippi River is scheduled to host more than 100 members for a three-day mini-session beginning Wednesday.

"In addition to welcoming citizen participation in the State Capitol in St. Paul, the Legislature should go out into communities across the state," House Speaker Melissa Hortman (DFL-Brooklyn Park) said in a statement. "This year we held more than 10 House committee field hearings that took place during the 2019 regular session. The mini-session is a continuation of our effort to make the Legislature more accessible and responsive to Minnesotans."

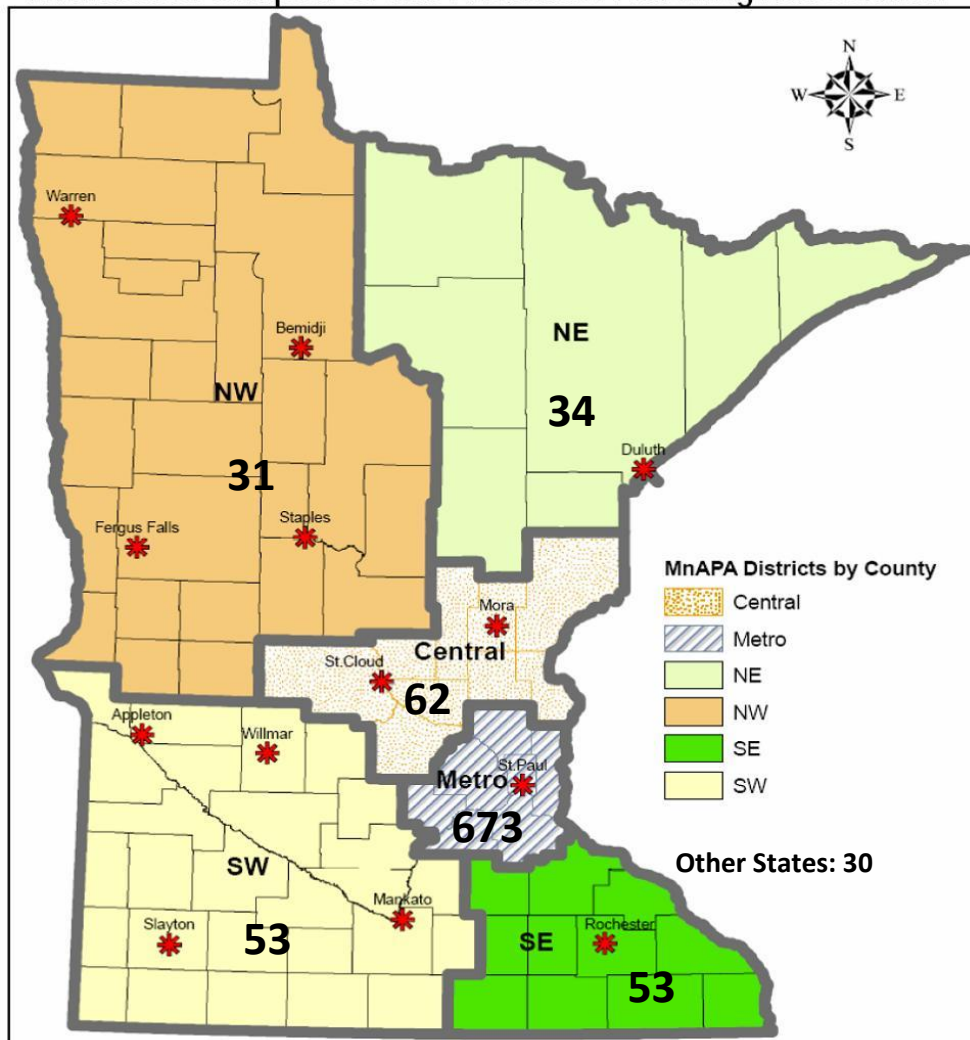
Members will not be together in one place, save for a pair of evening receptions. Rather, many committees and divisions plan to discuss issues at locations across southeast Minnesota, including Austin, Caledonia, Preston, Rochester, Rushford Township and Winona.



APA MN Districts and Membership

Geographic Distribution of Chapter Members

Minnesota Chapter of the American Planning Association



936 Chapter Members
352 Members: AICP
160 Student Members
12 Faculty Members



Legislative and Law Committee

The Legislative and Law Committee:

- ✓ actively engages with the chapter membership on policy issues of importance to our communities and the planning profession. The committee conducts the following activities: Develops and maintains the APA MN Legislative Policy Platform
- ✓ recommends annual policy platform implementation activities to the APA MN Board of Directors
- ✓ organizes an annual Planners' Day at the Capitol event during the Minnesota legislative session
- ✓ educates chapter membership on potential legislation and introduced legislation of interest to planners
- ✓ educates chapter membership on case law of interest to planners
- ✓ solicits input from members on key pieces of legislation



Policy Platform: Adopted in 2016

2016

- ❖ Completed listening sessions and used input from 2015 conference attendees
- ❖ Developed draft platform
- ❖ Sought input about the platform from 2016 state conference attendees
- ❖ Prioritized platform and developed action steps for each prioritized platform plank

2017

- ❖ Using input from the 2016 conference, additional topics to monitor were added
- ❖ Continued to revise potential action steps and developed 2018 Legislative Priorities
- ❖ Began request to review the potential to add a new plank
- ❖ Sought input about topics from 2017 state conference attendees

2018/2019

- ❖ 2018: Began work to connect the policy platform from research and education to outreach and advocacy
- ❖ 2018: Began work with national APA to develop advocacy strategies and materials
- ❖ Continuous input from committee members, the Board, “Day at the Capitol, and the annual conference
- ❖ 2019: Re-boot



2019 Committee Activities

Creation of 2018 Legislative Priorities and Carried Over to 2019

- Transportation and Communications Infrastructure
- Workforce Housing
- Preserving and Expanding the Supply of Affordable Housing
- Local Government Economic Development Tools: Expansion of TIF
- Metropolitan Council Governance
- Compatible Land Use Planning for Airports

March 18, 2019 Planner's Day at the Capitol in St. Paul

- 36 Attendees: Full Day Sessions on Topics and time to meet legislators

State and Federal Updates to Committee and Members:

- Legislative
- Executive Branch
- Courts

Targeted Letters of Support from Chapter President

Annual State Conference Update Session for CM Law Credits

Upper Midwest APA Conference



Policy Platform

The Five Planks and One Under Discussion

Sustainable Transportation

Sustainable multimodal transportation enhancing access and mobility.

Livable Communities and Housing

Livable communities made up of affordable and inclusive neighborhoods.

Comprehensive and Statewide Planning

Fundamental planning principles which incorporate intergovernmental cooperation, effective planning tools, and excellence in citizen involvement.

Integrated Resource Planning

Integrated renewable energy, local foods, and resilient planning practices which support Minnesota's interdependent resources.

Community Health

Integrating public health into planning for equitable, sustainable and resilient communities.

Economic Development (Discussion Phase)



APA MN 2018 LEGISLATIVE PRIORITIES

American Planning Association - Minnesota Chapter

Making Great Communities Happen

Transportation and Communications Infrastructure

- APA-MN supports continued funding of the Border-to-Border Broadband program
- APA-MN supports improvements to the state's transportation system, including consideration of all potential revenue sources

Workforce Housing

- APA-MN supports state and local financing tools to expand the supply of workforce housing across the state

Preserving and Expanding the Supply of Affordable Housing

- APA-MN supports:
 - Changes in infrastructure and economic development programs providing incentives for community-wide integration approaches such as inclusionary zoning and rent control authority
 - Expanding tax credits for affordable housing and matching funds
 - Strengthening housing rehabilitation programs at the state level, including enhanced preservation tools
 - Amending TIF pooling language to expand eligibility for affordable housing projects beyond tax credit eligible properties. and for the rehabilitation for older apartments and buildings

Local Government Economic Development Tools

- APA-MN supports increased flexibility of the use of TIF, "as well as other tools that facilitate land assembly, redevelopment, and local financing of development"

Metropolitan Council

- APA-MN supports strengthening the governance of the Metropolitan Council by staggering the appointments of members by the Governor and creating a nominating committee process that maximizes participation and input by local officials

Compatible Land Use Planning for Airports



2019 Regular Session:

2019 Regular Session

2, 921 House Bills Introduced

2,925 Senate Bills Introduced

65 Bills became law

May 19, 2019: Agreement reached on budget bills but special session needed



May 24 Special Session: 13 Laws Passed

Chapter: 1 Bill: *SF1 / HF7

Description: Special session agricultural finance bill.

Chapter: 2 Bill: *SF3 / HF9

Description: Special session outdoor heritage legacy appropriations bill.

Chapter: 3 Bill: *HF6 / SF5

Description: Special session transportation finance bill.

Chapter: 4 Bill: *SF7 / HF4

Description: Special session environment and natural resources finance bill.

Chapter: 6 Bill: *HF5 / SF11

Description: Special session tax bill.

Chapter: 7 Bill: *HF2 / SF2

Description: Special session jobs, economic development, energy, and commerce finance bill.

Chapter: 9 Bill: *SF12 / HF14

Description: Special session omnibus health and human services bill.

Chapter: 10 Bill: *SF10 / HF8

Description: Special session state government finance bill.

Chapter: 11 Bill: *HF1 / SF4

Description: Special session education finance bill.

Chapter: 13 Bill: *HF12

Description: Special session housing bill.



2019 Key Legislation

- **Transportation and Communications Infrastructure**

- Transportation Bill passed but no new sources of funding
- Border to Border Broadband funding passed but at lower levels than requested

- **Workforce Housing**

- Economic Development and Housing Challenge program Funds both multifamily rental and single family homeownership new construction and redevelopment. Leverages federal, private and local government funds. \$30,850,000 is appropriated for State FY 2020-20. \$4 million is appropriated for state FY 2020-21 to the Greater Minnesota Workforce Housing Program which provides competitive financial assistance to build market-rate and mixed-income residential rental properties in Greater Minnesota.

- **Preserving and Expanding the Supply of Affordable Housing**

- \$500,000 is appropriated for state FY 2020-21 for state matching funds to incentivize local governments to dedicate local resources to a housing trust fund to meet their local workforce and affordable housing needs.

- **Local Government Economic Development Tools: Expansion of TIF**

- Expansion or continuation of Special Local Government Laws for TIF projects

- **Metropolitan Council Governance**

- Bills introduced but no action

- **Compatible Land Use Planning for Airports**

- Passed in 2019-The law establishes two general approaches to airport safety zoning.
 1. The first approach provides for a process for providing for notice and adoption of airport zoning regulations using standards prescribed by the commissioner of transportation.
 2. The second approach provides an alternative process to allow for custom regulations.
- Cross-references the term “comprehensive plan” to the meaning of the term given in county planning and zoning statutes.
- Adds a declaration that airport operation and maintenance is an “essential public service
- Narrows the specification of what constitutes airport hazards based on existing land uses around the airport and establishes that prevention of airport hazards and airport lighting are “essential public services” and not just public purposes.
- Provides for municipal zoning regulation in airport hazard areas by removing the specific distance limitations, which broadens the geographic area that can be regulated.



2019 Federal Legislation Watch

S. 1699: Streamlining The Rapid Evolution And Modernization of Leading-edge Infrastructure Necessary to Enhance Small Cell Deployment Act (or STREAMLINE Small Cell Deployment Act)
Authors: U.S. Sens. John Thune (R-SD) and Brian Schatz (D-HI)

Updates the Communications Act to codify many parts of the FCC's Small Cell order into federal law.

The bill would complicate current efforts by cities to comply with the FCC Order and Minnesota Statute, as well as negotiations with industry partners to ensure a balanced approach to wireless siting.

Codifies parts of the FCC Order that greatly limit local authority over small cell wireless deployments in public rights of way, including provisions in the order that are currently being challenged in court by a myriad of state and local government organizations.

The bill would also impose a “deemed granted” provision where applications for wireless siting would automatically be approved if a city missed the application review deadlines.



Thank You!

Iowa Legislation and Planning

Steven J. Van Steenhuyse, AICP
Development Services Director
Mason City, Iowa



APA Iowa Chapter



- Iowa APA Advocacy Efforts:
 - ▣ Annual Legislative Agenda
 - ▣ Bill monitoring during the legislative session
 - ▣ Updates on bills of interest to chapter members
 - ▣ Presentation at annual chapter conference
- Design Professionals Day on the Hill
 - ▣ Cooperative effort with Iowa AIA, ASLA, ASID
 - ▣ Still working on this one
- Advocacy Leadership
 - ▣ Chapter sponsors President and Legislative Chair attendance at National Policy and Advocacy Conference

Iowa APA Legislative Agenda



- Preserve TIF
- Improve water quality
- “Enhance Iowa” funding
- Brownfield/greyfield development
- Statewide minimum wage
- Local control of planning issues
- Policies to support Livable Communities
- Housing

2019 Iowa Legislative Session

The Major Concern: Local Control



Iowa is home rule in name only; the State can preempt almost anything

Local Control: Occupancy

- Typical ordinance: “Family” defined as “persons related by blood, marriage or adoption,” or any stated number of unrelated persons
- City of Ames (Iowa State University) ordinance limiting a dwelling unit to 1 family related by blood, marriage or adoption, or up to 3 unrelated persons, upheld by Iowa Supreme Court
- 2018: HF 134 enacted

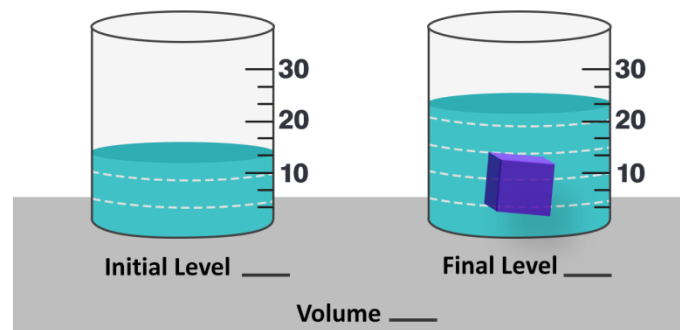
“A city shall not...adopt or enforce any regulation or restriction related to the occupancy of residential rental property that is based upon the existence of familial or non familial relationships between the occupants of such rental property.”

Local Control: Occupancy (2)

- Cities of Ames and Iowa City adopt “rental cap” ordinances to prevent overcrowding of dwellings and protect neighborhood values.
- In Ames, 7 neighborhoods limit percentage of single family and duplex rental units to 25 percent (some already have well over that); Iowa City adopts 30 percent limit in 9 neighborhoods.
- 2019: SF 447 enacted:
“A city shall not adopt or enforce any regulation, restriction, or other ordinance related to residential property rental permit caps on single-family homes or duplexes.”

Local Control: Small Cell Siting

- SF 431, enacted May, 2017
 - ▣ Quick introduction and review, caught most of us by surprise
 - ▣ Two classes:
 - Micro wireless facility: 24"x15"x12", antenna up to 11"
 - Small wireless facility: Antenna no more than 6 cubic feet in volume, associated equipment no more than 28 c.f. in volume



Local Control: Small Cell Siting (2)

- ▣ Locality may not prohibit or restrict siting on a tower, utility pole, or other wireless support structure
- ▣ Locality cannot require a special or conditional use permit for equipment in the ROW
- ▣ Locality may require equipment to “reasonably match the aesthetics of an existing (pole or support) that incorporates decorative elements”
- ▣ Locality may deny a small cell permit only in very limited circumstances

Local Control: Fireworks

- Sale and use of fireworks in Iowa have been illegal since 1938
- 2017 SF 489: Allows sales/use of “consumer fireworks”
 - ▣ Localities can restrict use of fireworks, but...
 - ▣ ...cannot prohibit sales

Local Control: Fireworks (2)

- Several communities attempt to control sales via special permits, higher fees, preventing sales from temporary structures, zoning limitations, etc.
 - ▣ Fireworks vendors file suit, win injunction
 - ▣ US District Court invalidates special permits and higher fees, but allows cities to restrict sales from temporary structures and allow sales in specified zoning districts
- 2019 Bills backed by fireworks vendors attempt to preempt any local control over sales, but do not make it out of committee
- 2020?

Other Issues: Housing

- 2014: Workforce Housing Tax Incentive
 - ▣ Replaced old Housing Enterprise Zone Tax Credits
 - ▣ Projects targeted at middle-income households and focus on the redevelopment or repurposing of existing structures
 - ▣ Provides a tax credit up to 10% of investment (\$15K per unit), transferable, and refund of 6% sales and use taxes
 - ▣ Local match of \$1,000 per unit
- Funding ran out in 2017
- 2019: Additional funding authorized
 - ▣ 40% of funds must be used in small cities (any city not in the 11 most populous counties)

APA Federal Advocacy



American Planning Association

Creating Great Communities for All

APA Federal Advocacy

- Planner's Advocacy Network
 - ▣ Open to all APA members
 - ▣ Join today – it's free and it's fun!
 - ▣ www.planning.org > Policy and Advocacy > Planner's Advocacy Network
- Annual Advocacy Day
 - ▣ Just before the August recess
 - ▣ Members urged to contact representatives on issues of concern to planners
- Annual Policy and Advocacy Conference and Planner's Day on Capitol Hill

Federal Focus: Transportation and Infrastructure

- THUD Appropriations – BUILD, CDBG, HOME, Choice Neighborhoods, Transit Capital Investment Grants
 - House passed funding bill; Senate bill in committee
 - APA is pleased with proposed funding levels



FAST Act Reauthorization

- Senate Environment and Public Works Committee already working on new bill, 1 year ahead of current expiration
 - America's Transportation Infrastructure Act
 - \$287 billion over 5 Years; 18% Increase 1st year and 2% each year following
 - Requires \$84 billion in new Revenue
 - Passed EPW Unanimously

- APA Focus:

Sustainable
Funding

Climate
& Resiliency

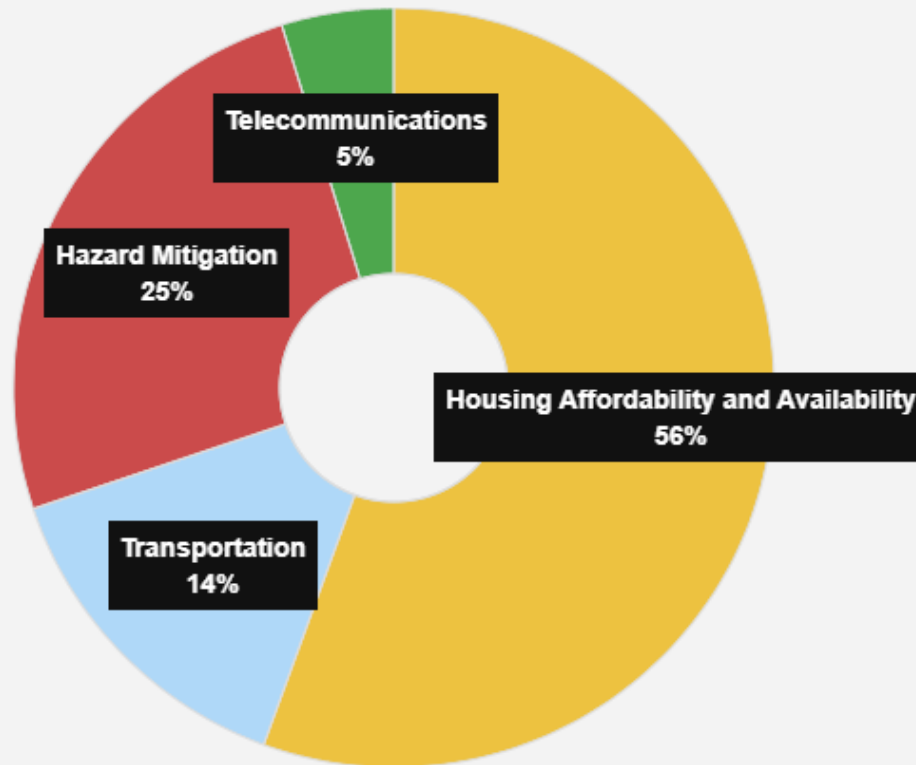
Transit, Biking,
Walking

Future
Focused

Equity in All Policies

State Level Issues Affecting Planners

Which of the following state policy issues do you believe should be APA's highest priority for 2020?



State Level Issues Affecting Planners (2)

Use ONE word to describe a prominent policy issue for planning in your state in 2019.

affordability climate comprehensive-plan disaster education finance

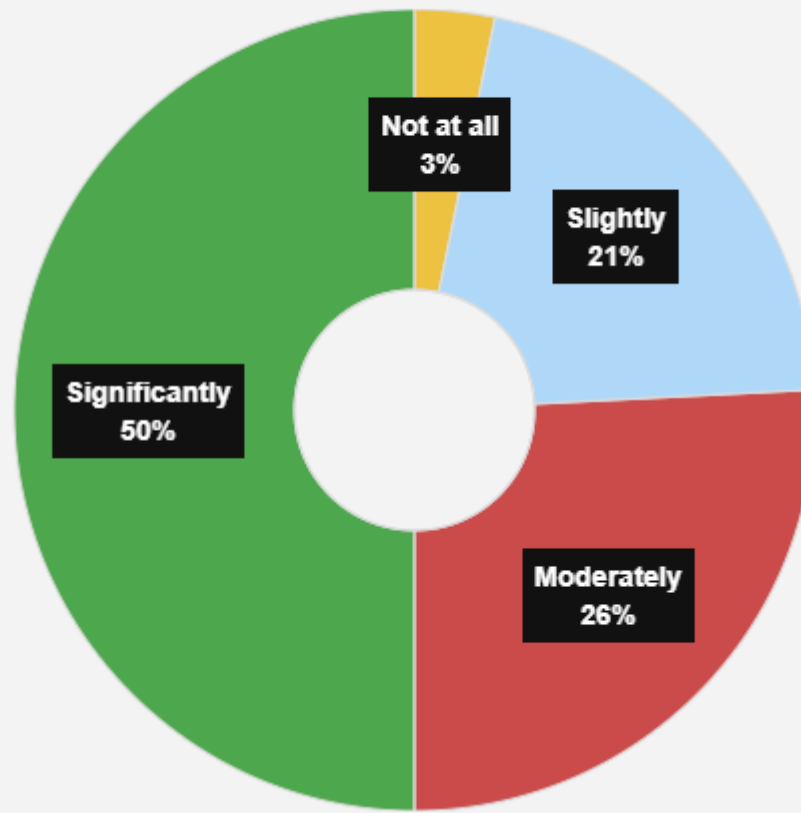
housing inclusionary infrastructure opportunity

preemption resiliency schools sustainability

telecommunications **transportation** water

Local Control: It's Everyone's Issue

To what extent is state preemption a threat to planning in your community?



Federal Planning Priorities

What federal policy issue in 2020 do you think will be the most important to planning or your community?

affordability affordable back census **change climate**

development diversity economic eneegey environmental fema finance

funding hazard **housing** immigration

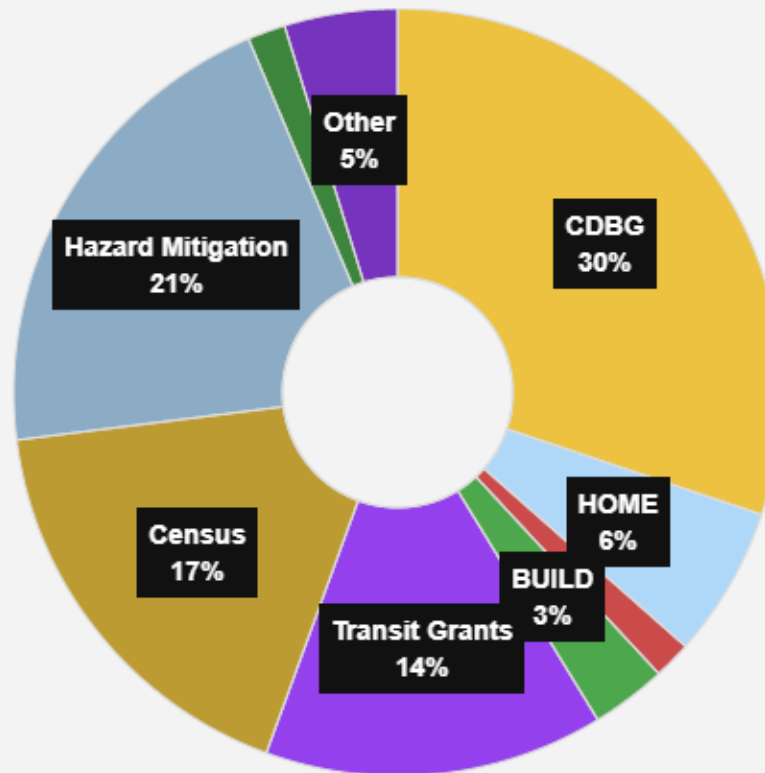
infrastructure justice mitigation of opportunity preemption

professional reauthorization regulations resilience roll suitable technology

transportation








Federal Funding Needs

Which federal discretionary program is your highest priority for increased federal funding in 2020?













Federal Incentives

Which federal tax incentive or credit is the most important or has the biggest impact for your work or community?

CHOICE	VOTES		
Low Income Housing Tax Credit	31	48%	
Opportunity Zones	10	15%	
Municipal Bonds	13	20%	
New Market Tax Credit	3	5%	
Private Activity Bonds	2	3%	
Historic Rehabilitation Tax Credit	5	8%	
Other	1	2%	

National APA Federal Efforts

Which of the following federal policy issues do you believe should be APA's highest priority for 2020?

CHOICE	VOTES		
Housing	18	27%	
Infrastructure	16	24%	
Resiliency	11	17%	
Data	1	2%	
Technology	0	0%	
Parks	0	0%	
Local Pre-emption	4	6%	
Opportunity Zones	1	2%	
Tax Policy	2	3%	
Climate Change	13	20%	

Upcoming Policy Guides



- ▣ Legacy Cities
- ▣ Inclusive Growth and Economic Development
- ▣ Climate Change
- ▣ Hazard Mitigation

Questions?

□ Contact Info:

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