

2019 ND Statewide Planning Issues & Needs Survey Results

Introduction

The ND Statewide Planning Issues & Needs Survey is a collaborative effort among the ND Planning Association (NDPA), ND League of Cities (NDLC), ND Association of Counties (NDACo), and ND Association of Township Officers (NDOTA). In this report “the state associations” refers to these four associations.

Survey Purpose: To investigate needs and issues of political subdivisions across the state, related to planning and zoning activities and to formulate a set of baseline data related to the level of resources each political subdivision has at its disposal to support planning activities.

Survey-Taker Audience: Zoning Administrators (including Auditors, Emergency Managers, etc.), Planners, Planning Directors, Planning & Zoning Commission/Board members and elected officials of all North Dakota’s cities, counties and townships.

Method: A 21-question survey instrument was developed with input from each of the each of the state associations: NDPA, NDLC, NDACo, NDTOA. The survey was made available from September 6, 2019 through January 24, 2020 via the Survey Monkey online platform.

Notifications to participate in the survey were sent via e-mail to staff and leadership of political subdivisions. Notices were publicized in e-newsletters and on the website of each of the state associations. The survey was also publicized in-person at the annual conferences of each of the associations in fall/winter of 2019.

Data Presentation Notes

Unless otherwise noted, results are given in both raw number of survey responses and percent of survey takers (within the political subdivision category) who selected that response. Percent figures may not add up to 100% in cases where questions allowed for more than one answer choice.

All data is presented in color coded fashion for easy identification of trends. Total response rate for each political subdivision category is as follows:

Large City >15,000 population: **32** survey responses

All Other Cities < 15,000 population: **89** survey responses

Counties: **43** survey responses

Townships: **48** survey responses

Total: **212** survey responses

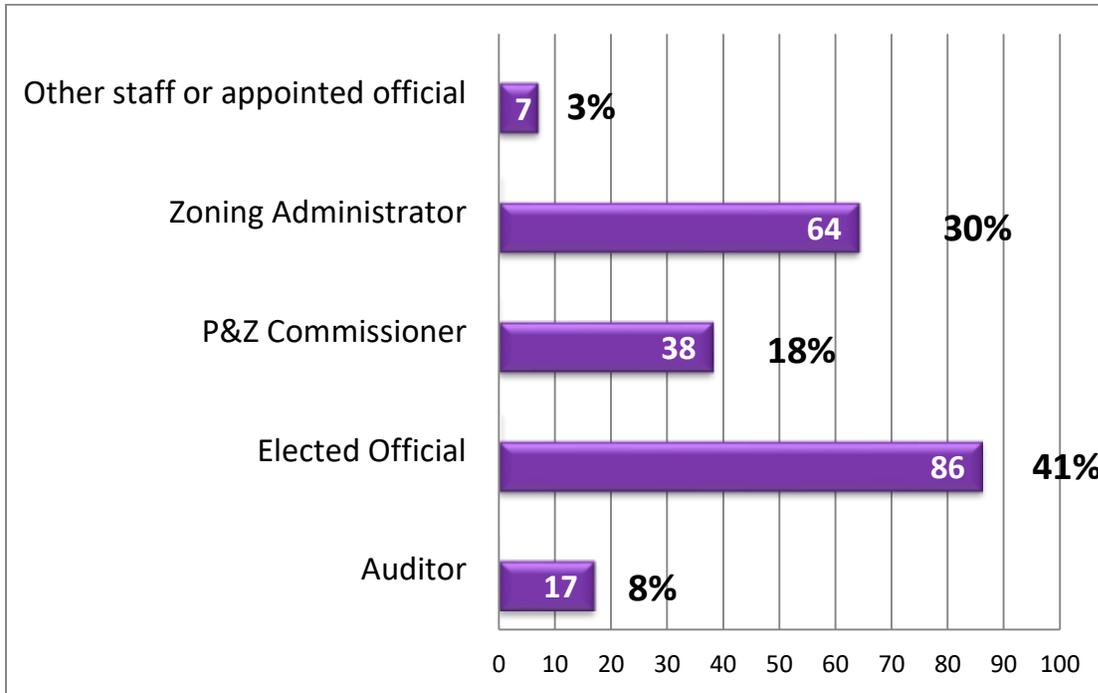
Original survey questions are reprinted as they appeared on the survey instrument. Notes on the survey responses appear in italic font.

A copy of the 54-page report that includes the results of all survey questions as well as the full-length text of responses to open-ended survey questions is available by request to natalie.pierce@mortonnd.org

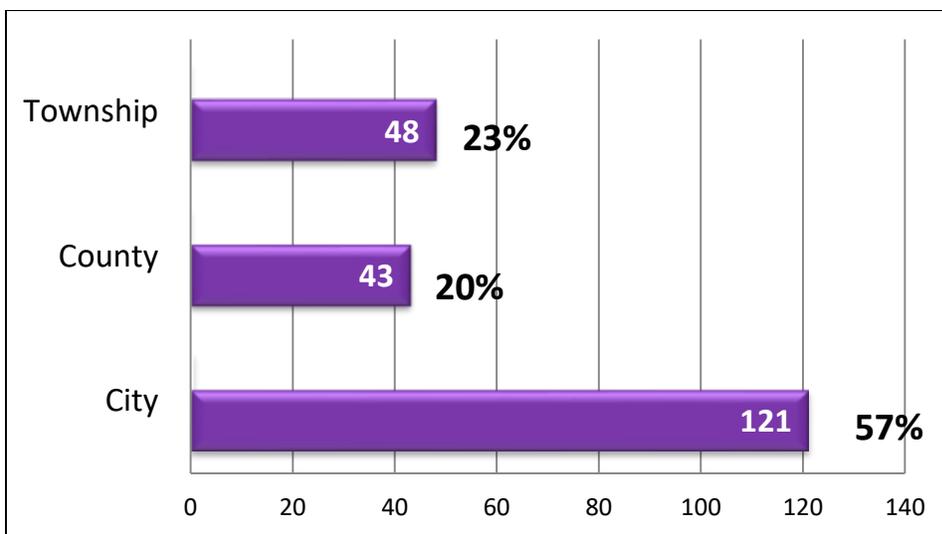
2019 ND Statewide Planning Issues & Needs Survey Results

Survey Results

1) Which choice best describes your role within the city/county/township you represent/work for?

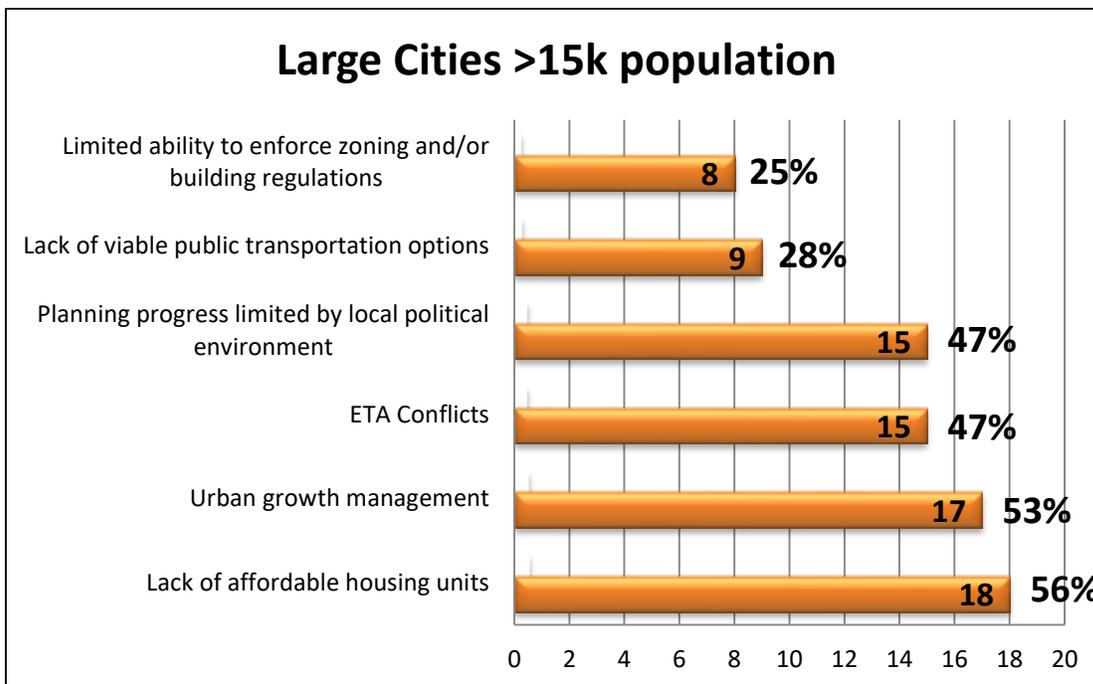
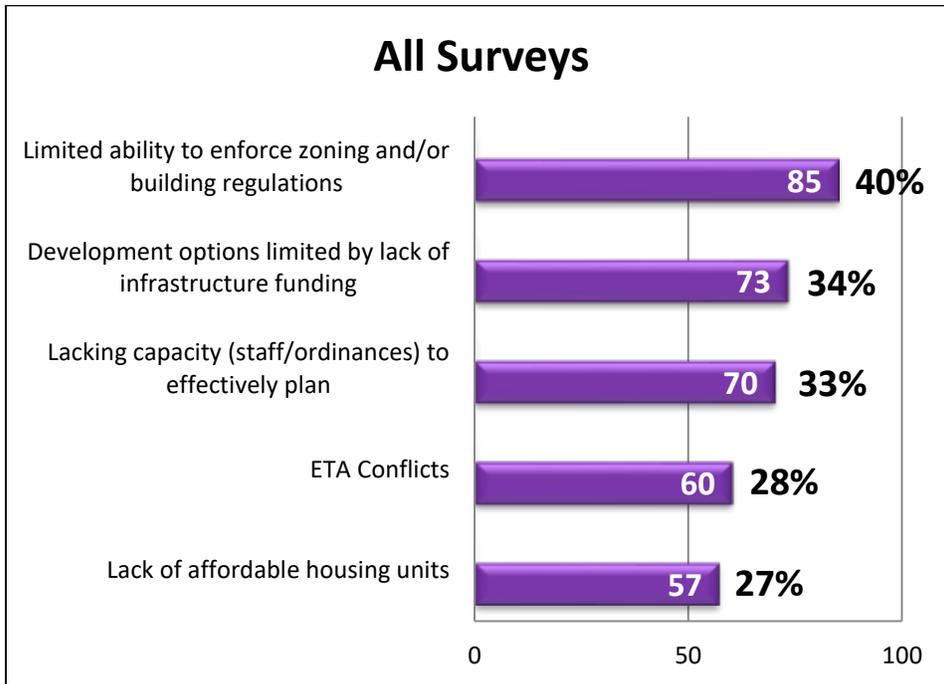


2) Please select the type of political subdivision that you represent/work for?

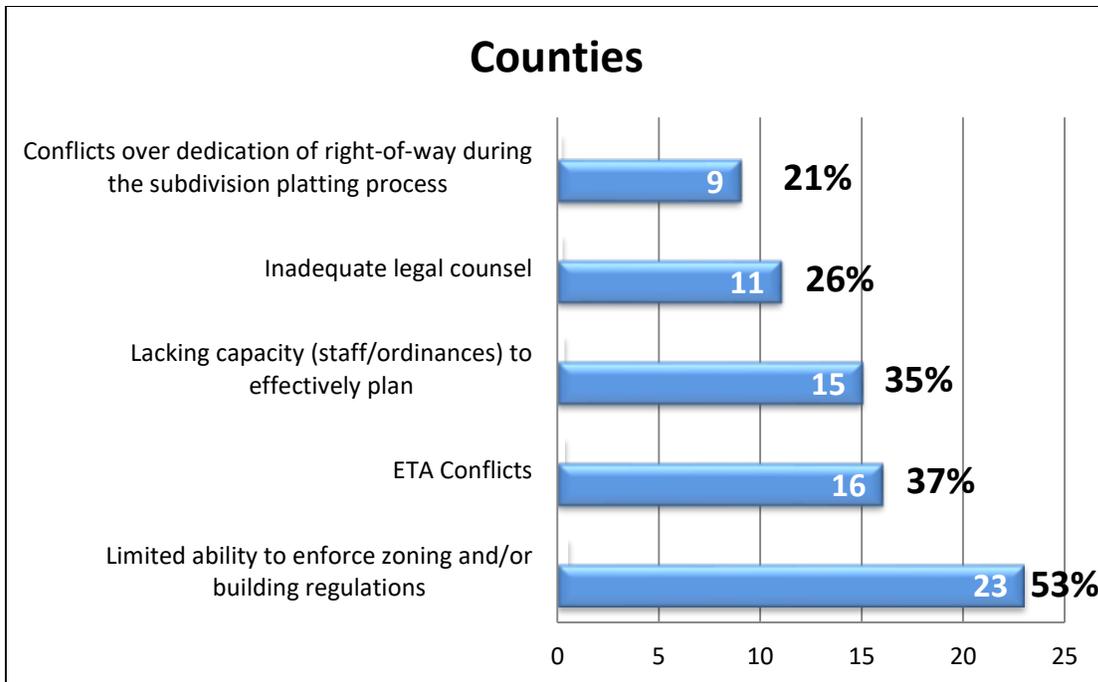
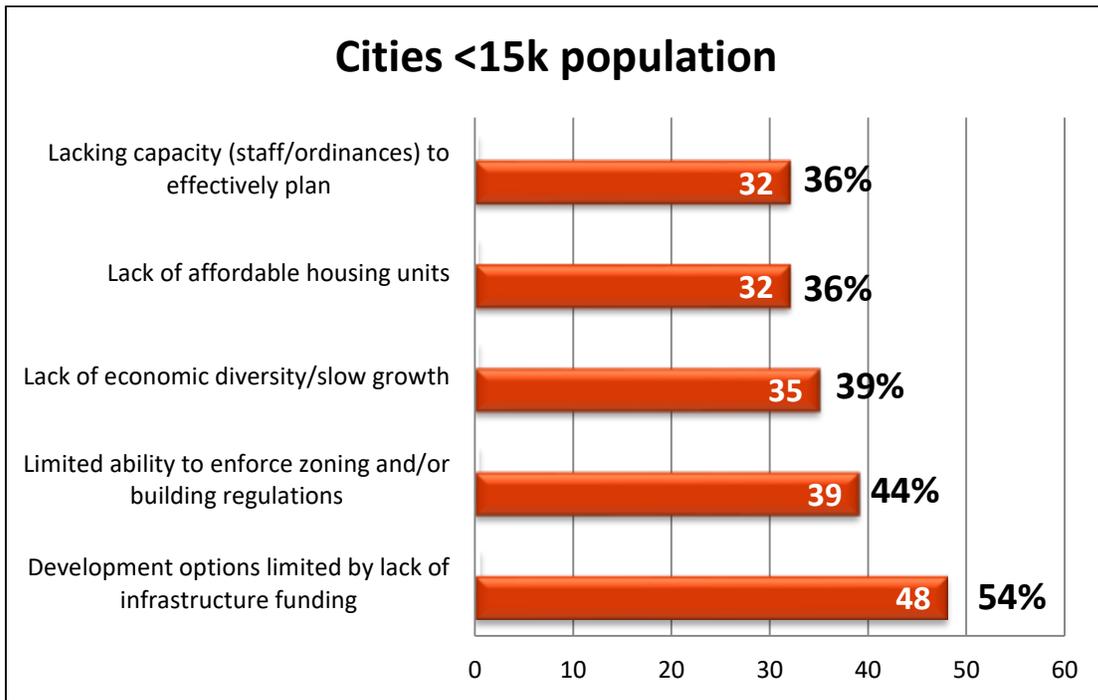


2019 ND Statewide Planning Issues & Needs Survey Results

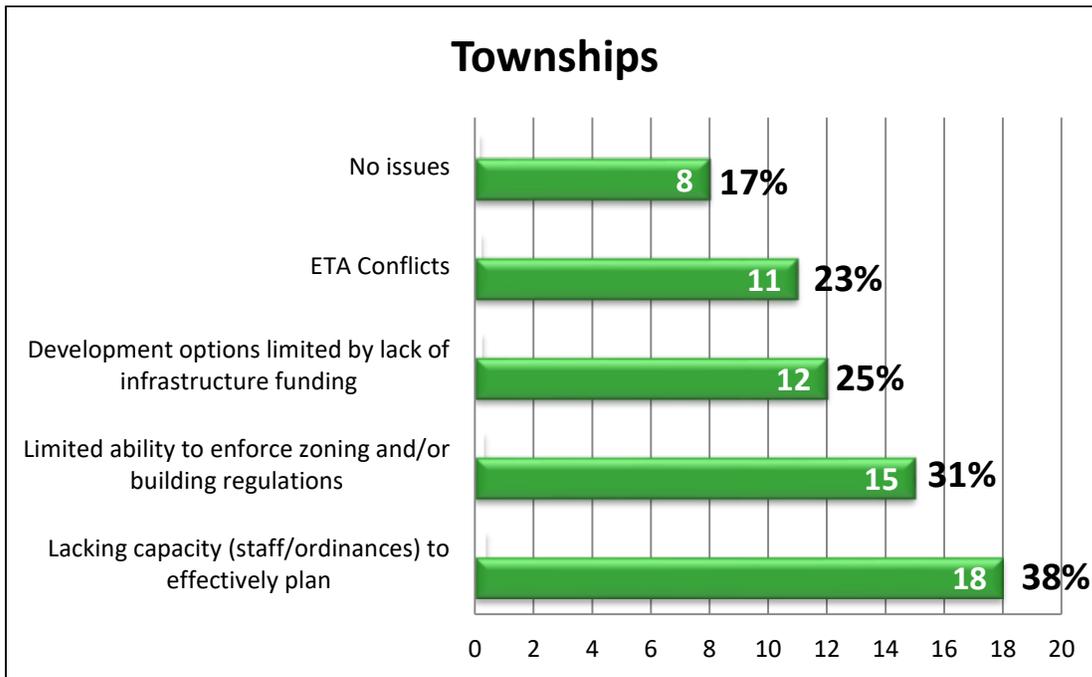
3) What are the *most significant, ongoing planning and zoning challenges your city/county/township faces?*
Charts below list the five or six most popular choices by political subdivision category.



2019 ND Statewide Planning Issues & Needs Survey Results

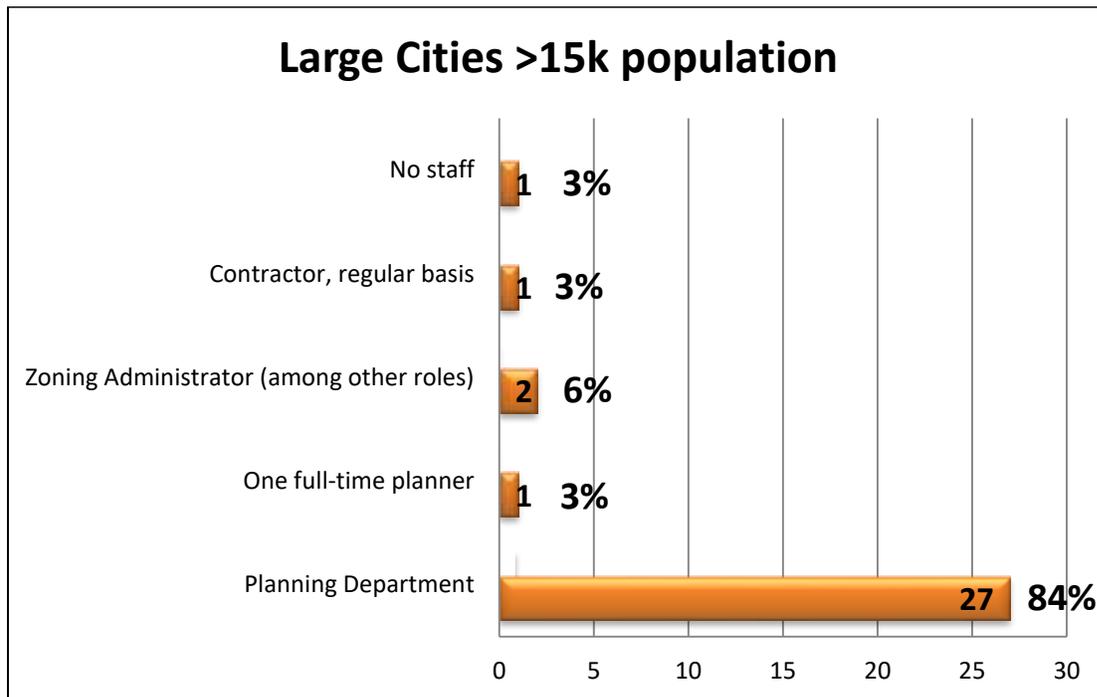


2019 ND Statewide Planning Issues & Needs Survey Results

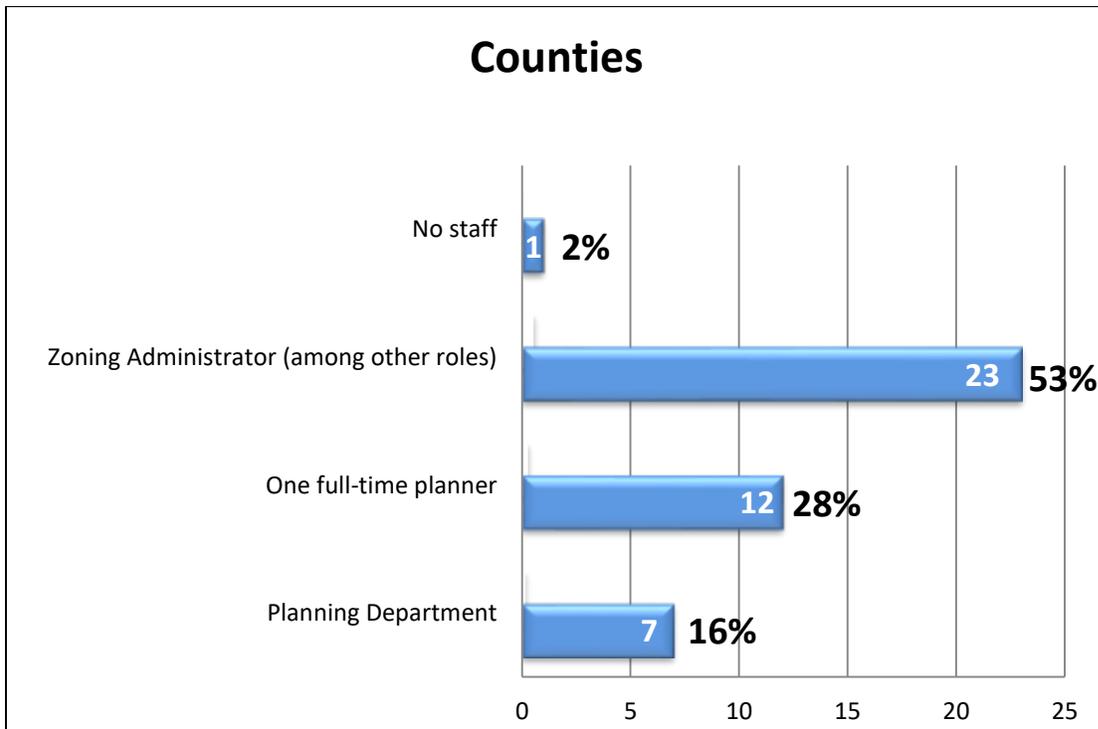
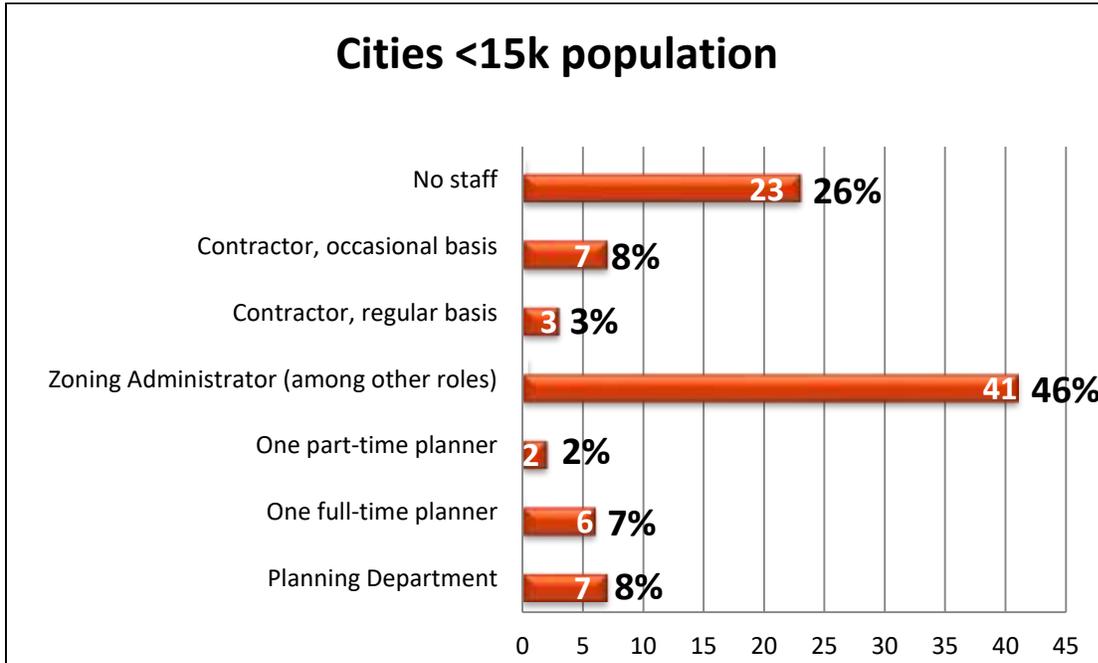


4) Please choose the option that most accurately completes the following sentence. Within the city/county/township I work for/represent, planning and zoning-related staff consists of ____.

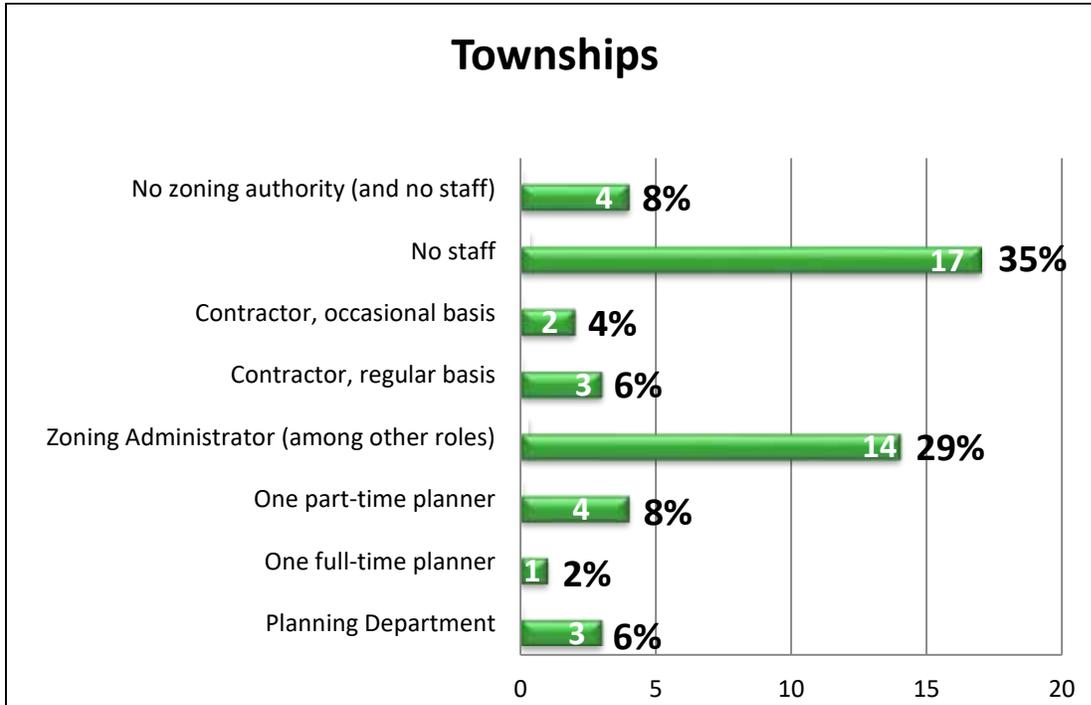
Choices with zero responses within category are not listed on chart.



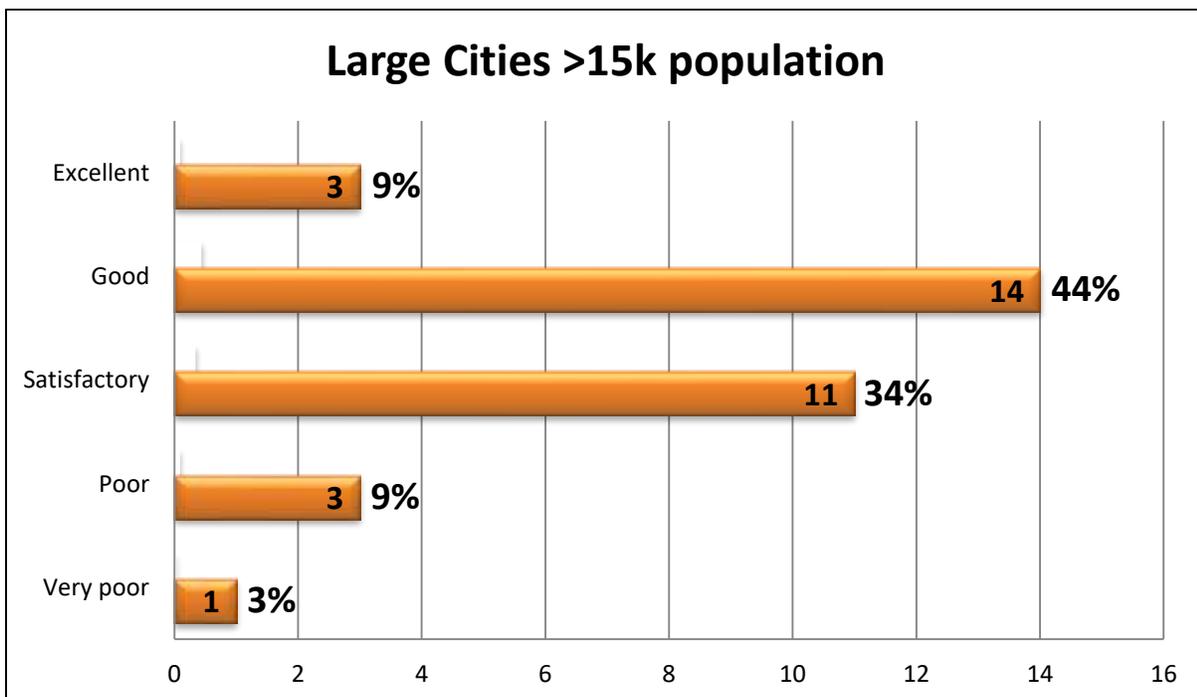
2019 ND Statewide Planning Issues & Needs Survey Results



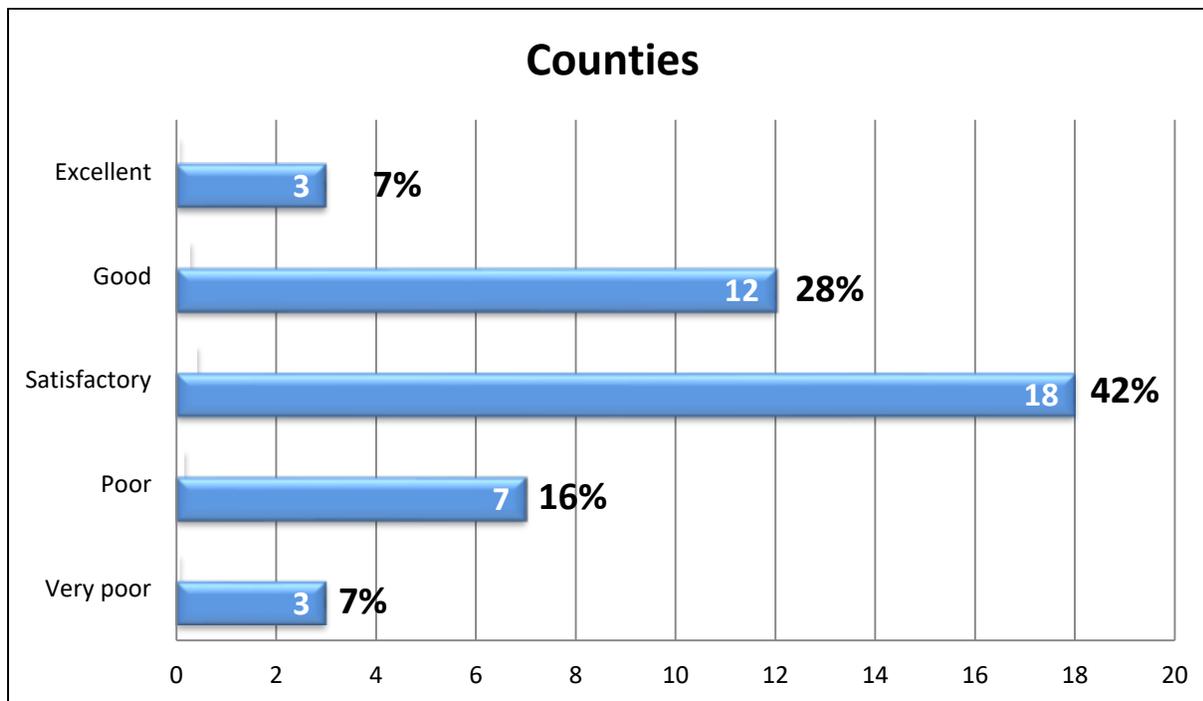
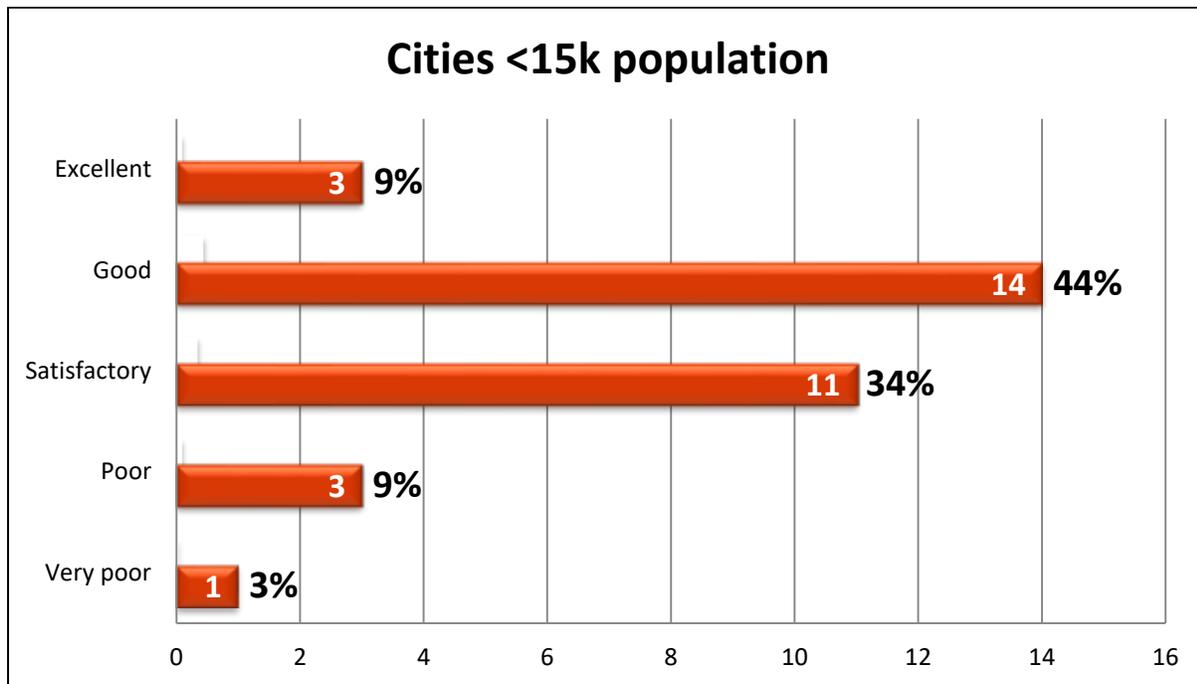
2019 ND Statewide Planning Issues & Needs Survey Results



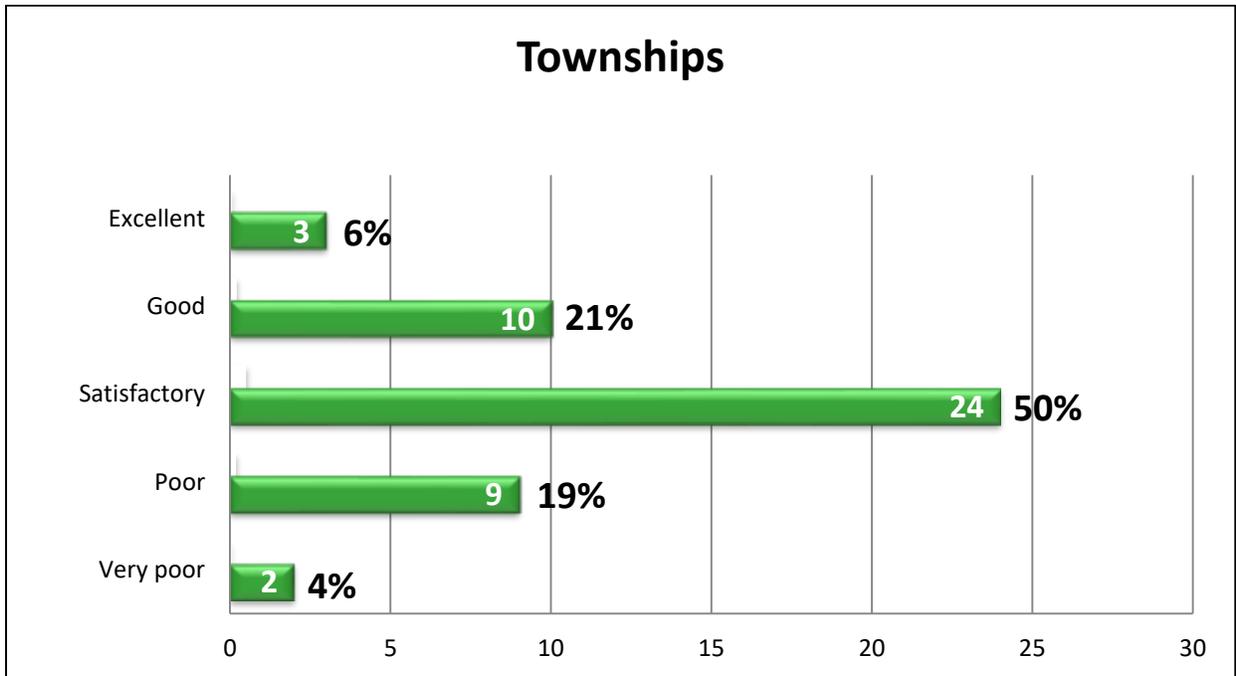
5) How would you rate the functionality of your current Zoning Code/Zoning Ordinance (meaning internal consistency, completeness, and ease of use to interpret and apply on a regular basis)?



2019 ND Statewide Planning Issues & Needs Survey Results

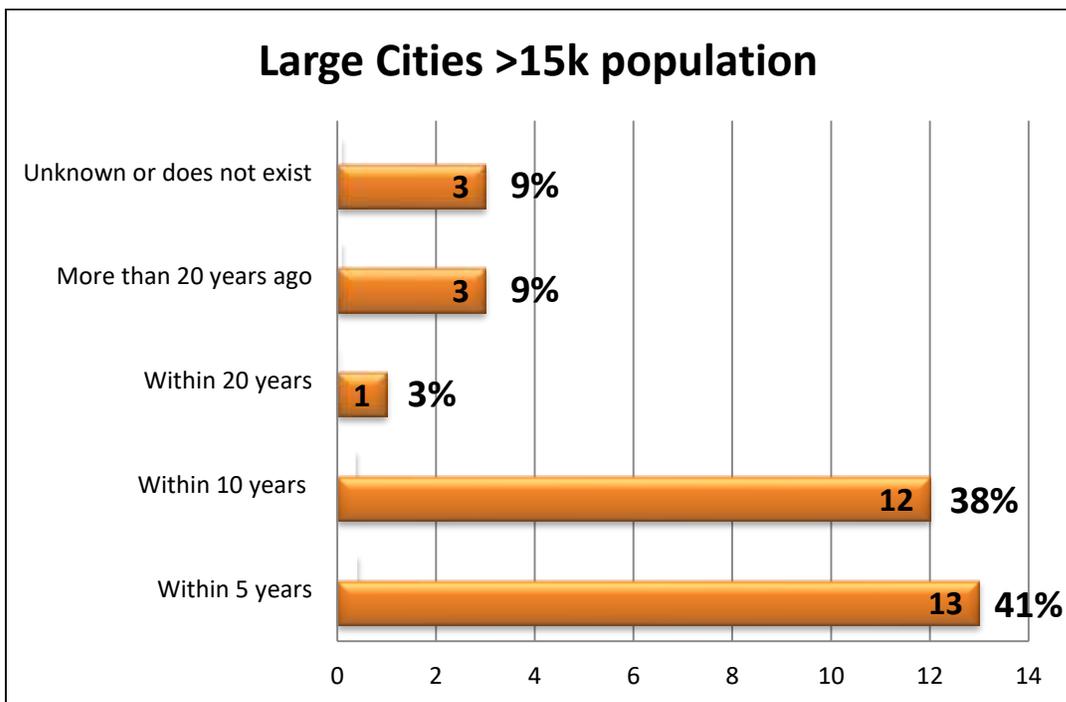


2019 ND Statewide Planning Issues & Needs Survey Results

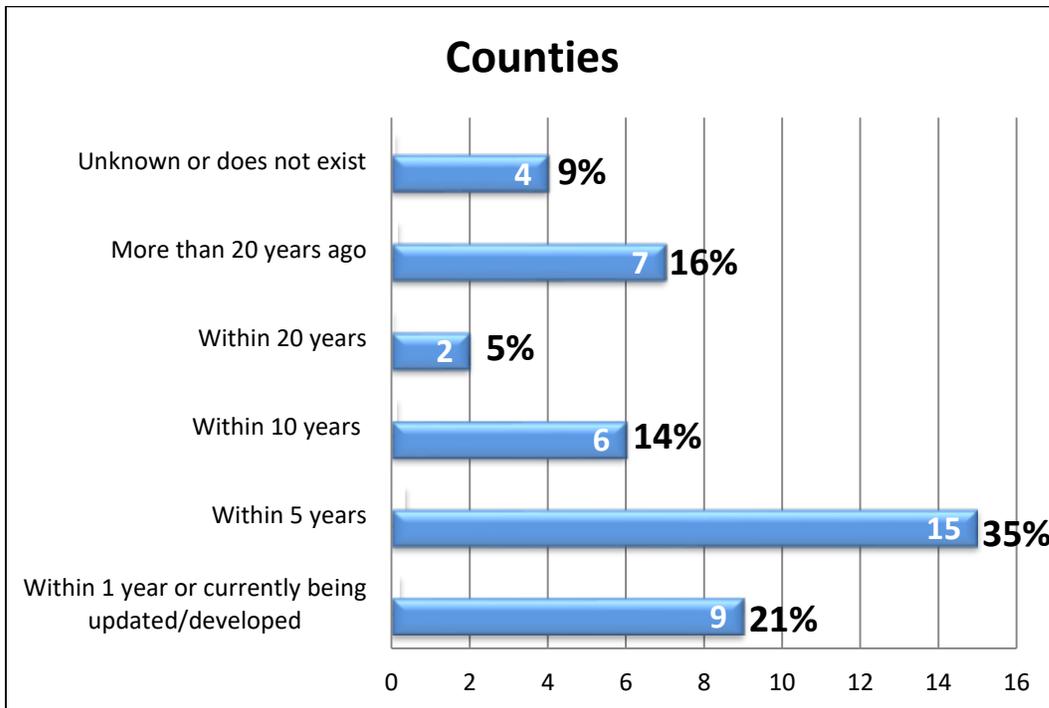
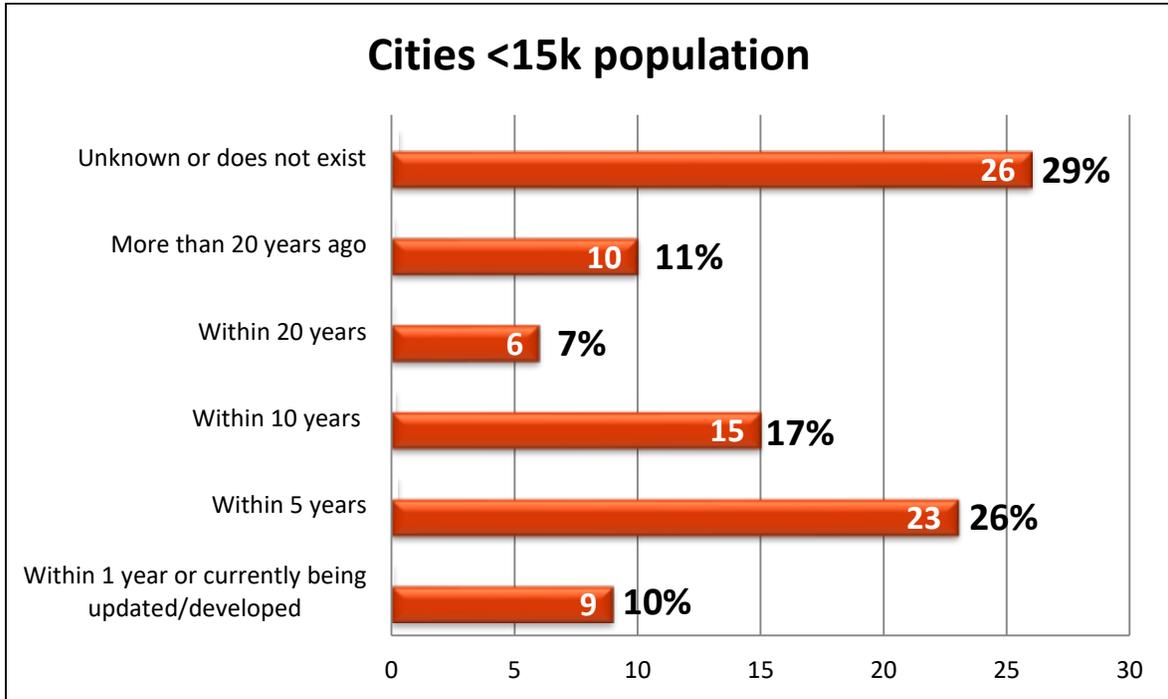


6) In what year was the most current version of your Comprehensive/Long-range Plan adopted?

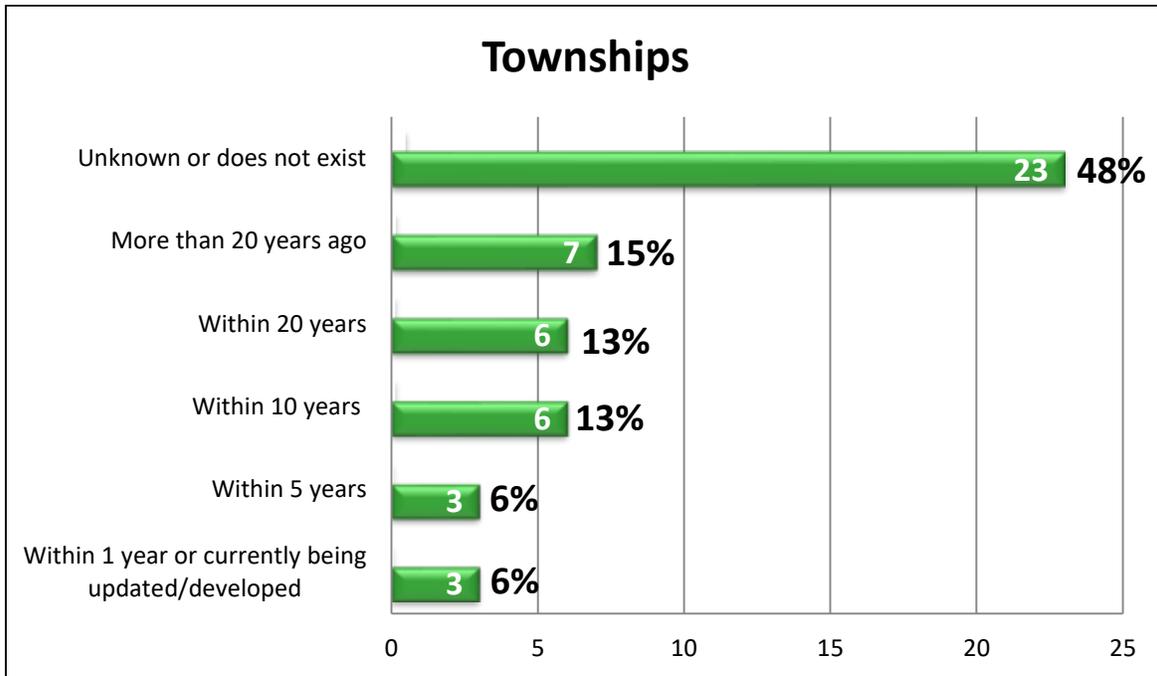
Choices with zero responses within category are not listed on chart.



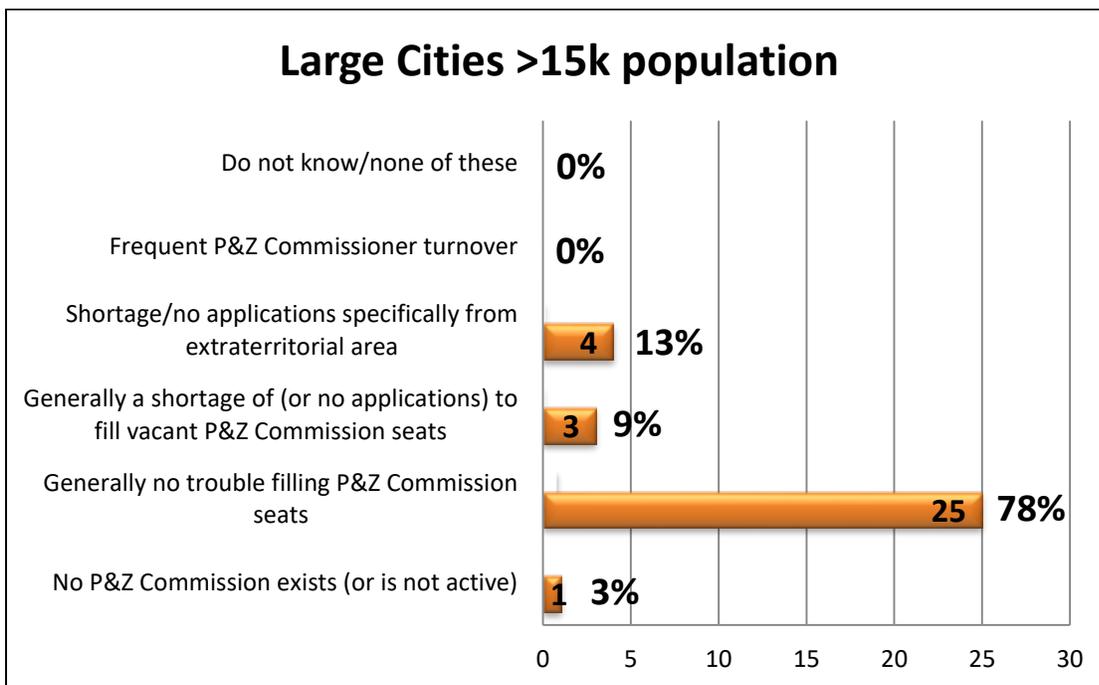
2019 ND Statewide Planning Issues & Needs Survey Results



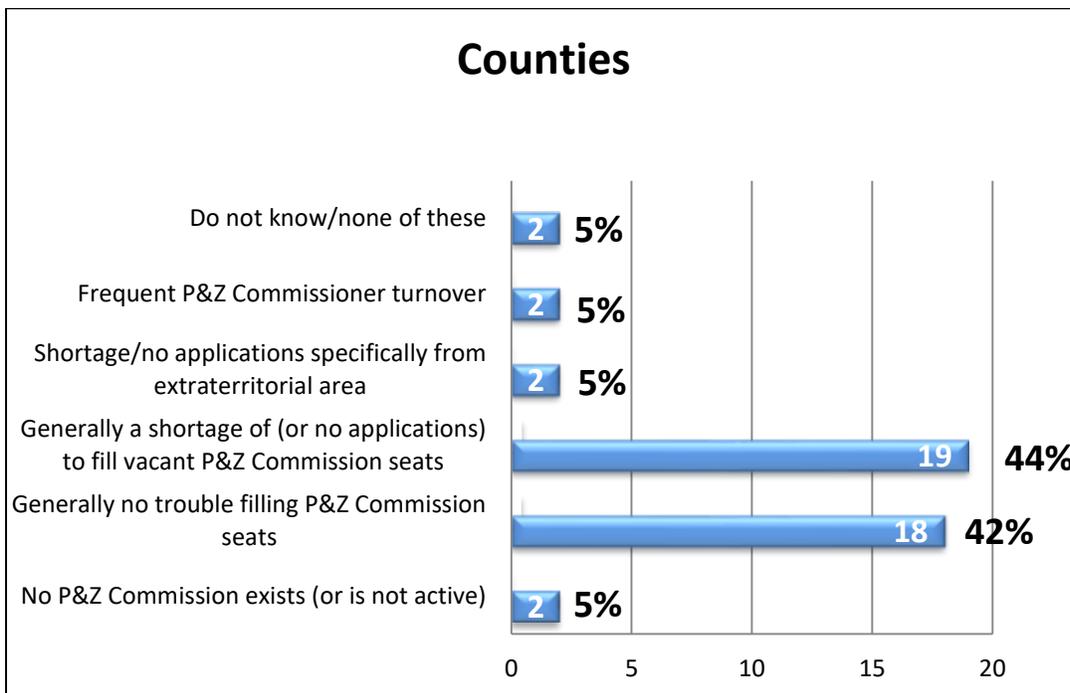
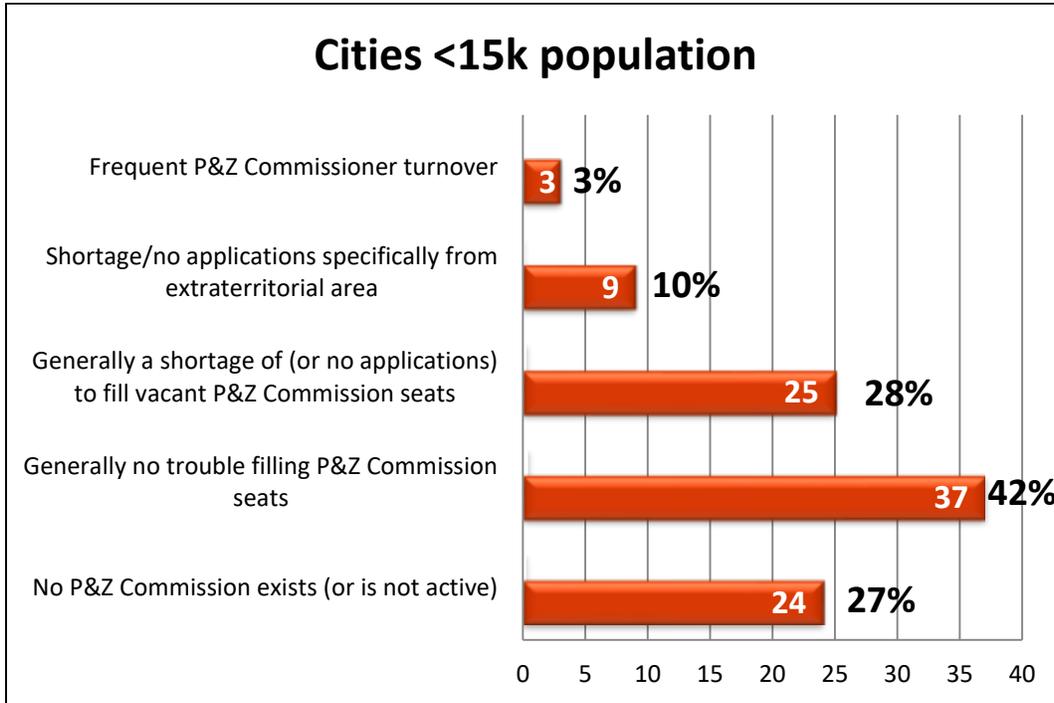
2019 ND Statewide Planning Issues & Needs Survey Results



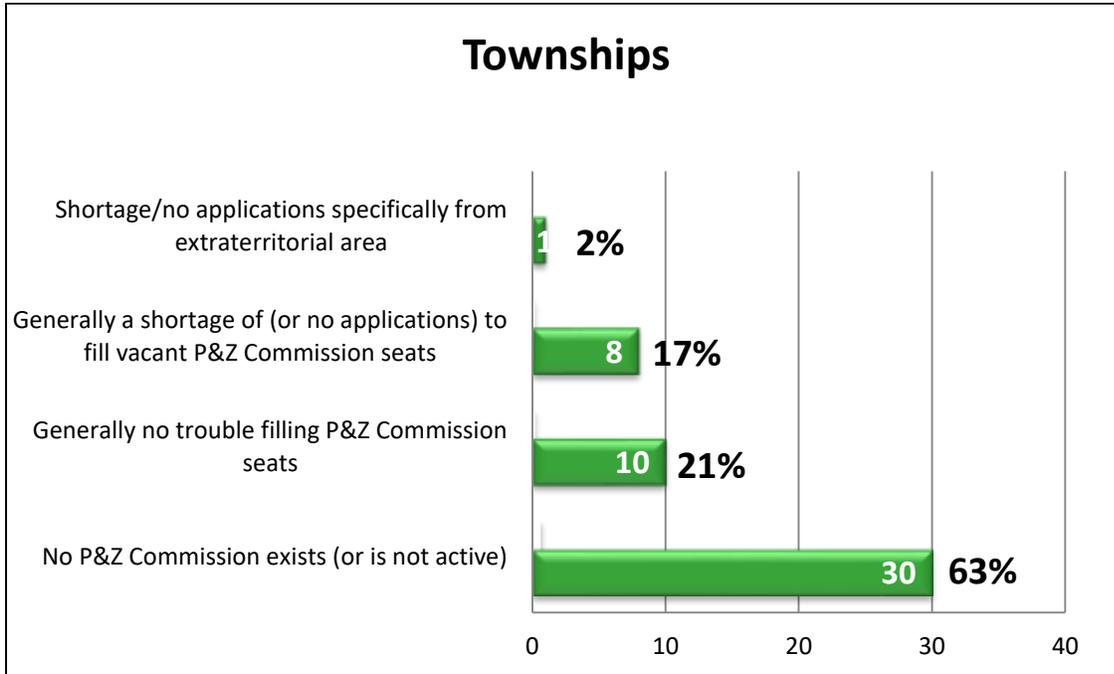
7) Please select the statement(s) below that most accurately describe(s) the status of the Planning & Zoning Commission for your city/county/township and the process of replacing Planning & Zoning Commission members (you may select more than one statement, if applicable).



2019 ND Statewide Planning Issues & Needs Survey Results

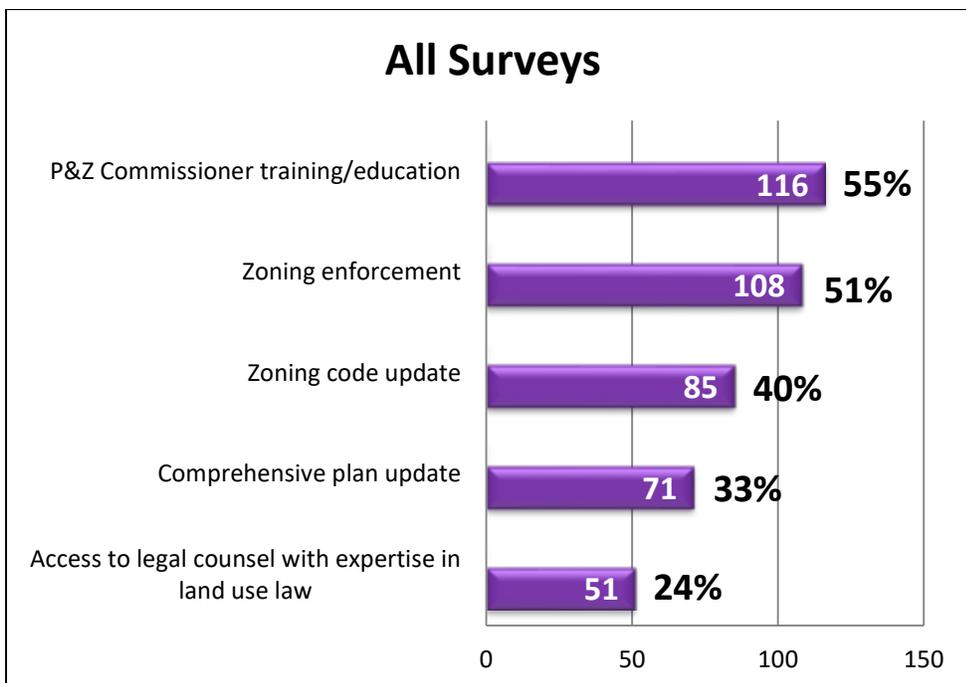


2019 ND Statewide Planning Issues & Needs Survey Results

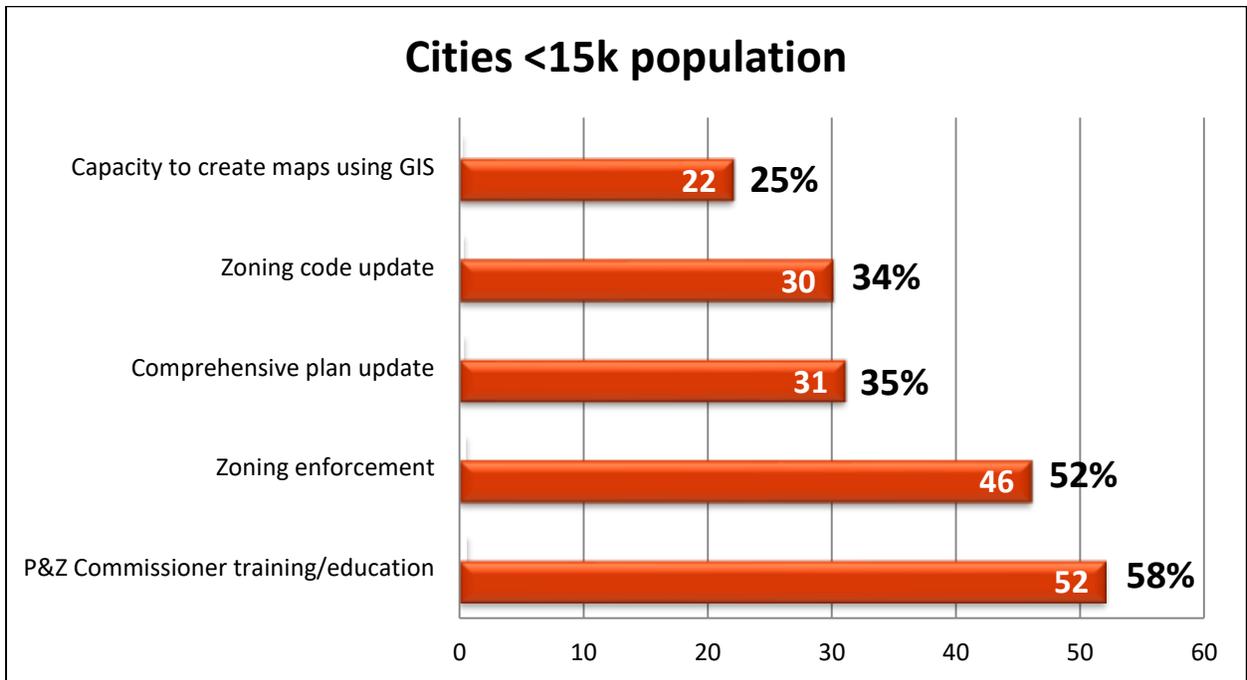
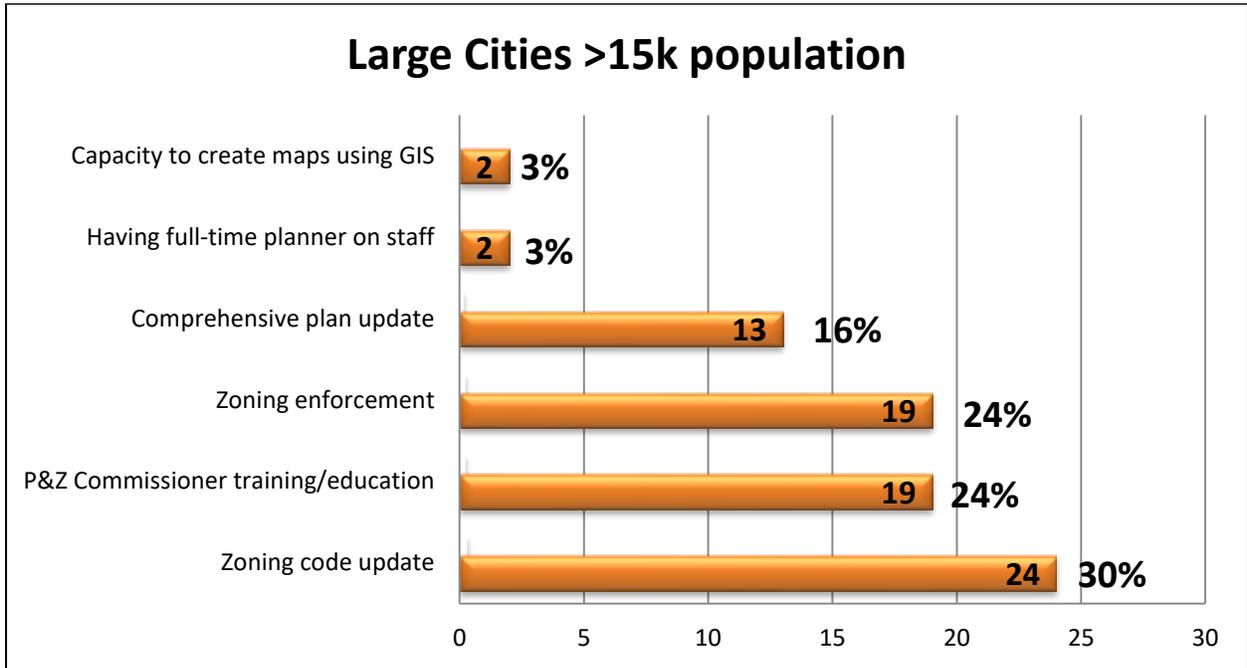


8) What are the three greatest needs of your city/county/township, related to carrying out planning and zoning activities?

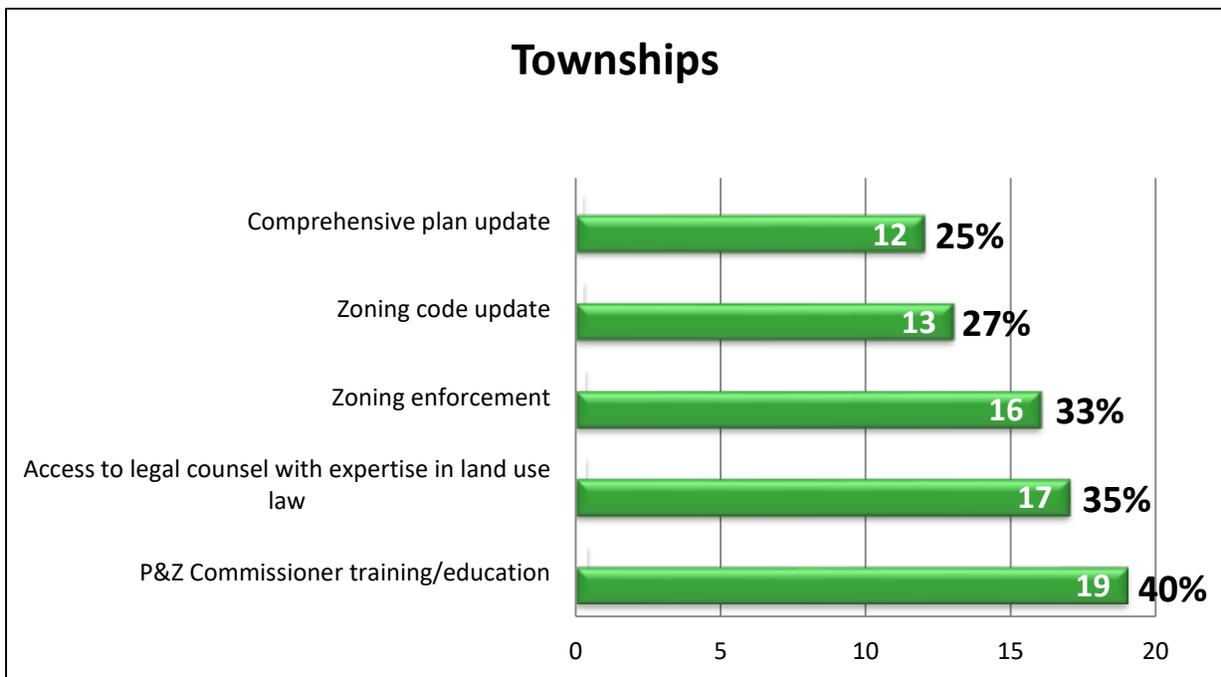
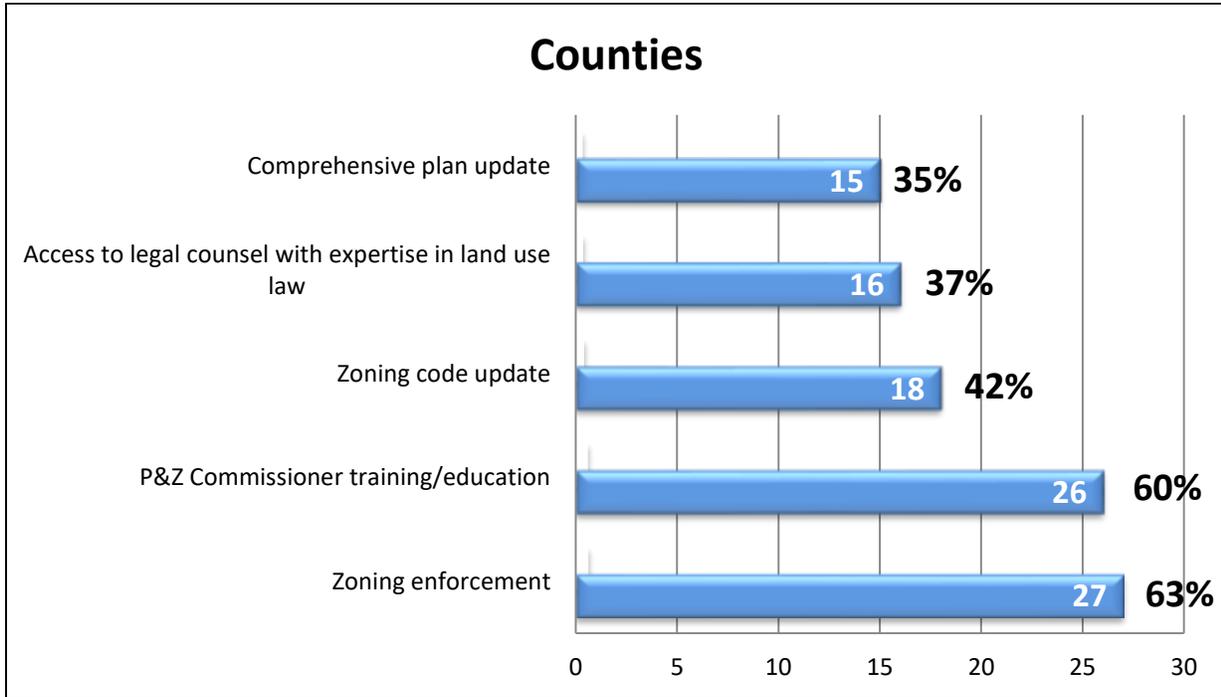
Although survey takers were asked to identify top three choices, top five or six most popular choices across survey responses within category are displayed. Choices with zero responses within category are not listed on chart.



2019 ND Statewide Planning Issues & Needs Survey Results



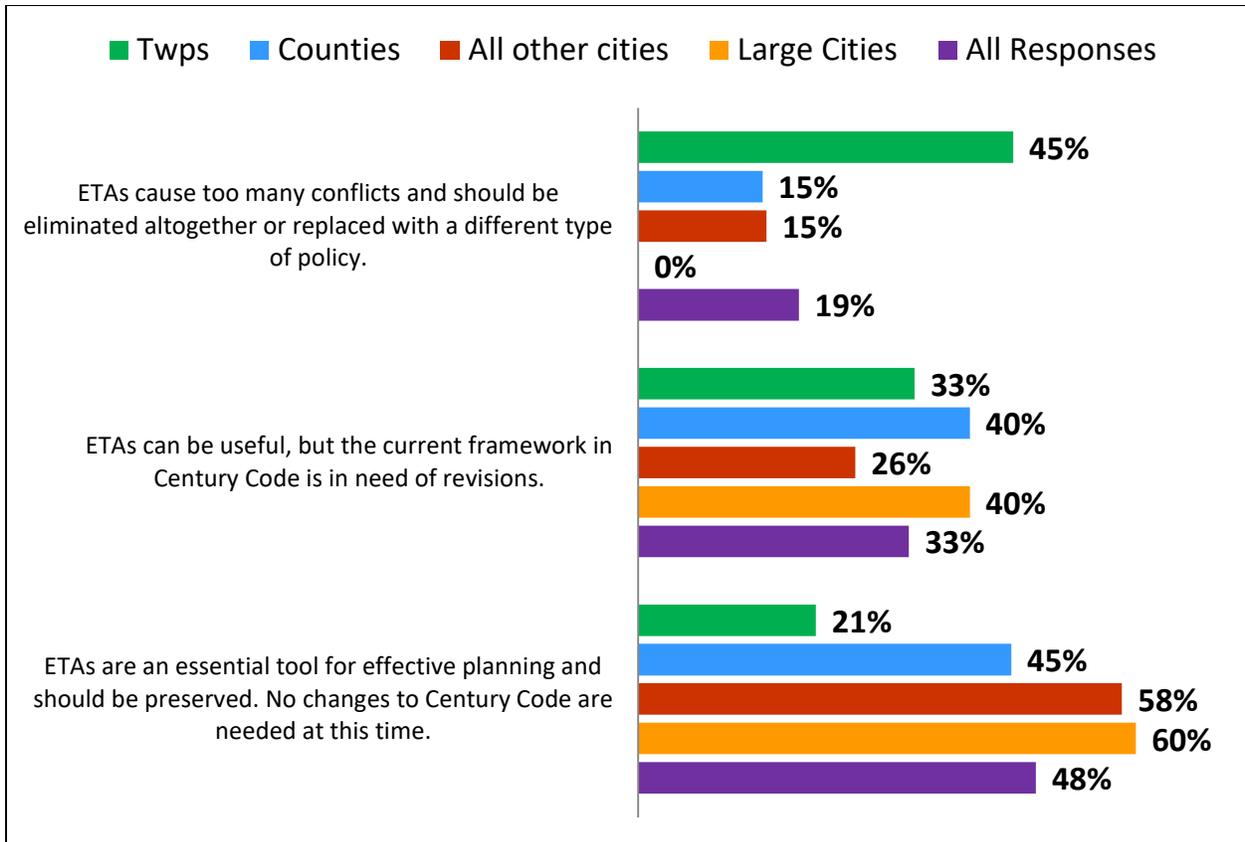
2019 ND Statewide Planning Issues & Needs Survey Results



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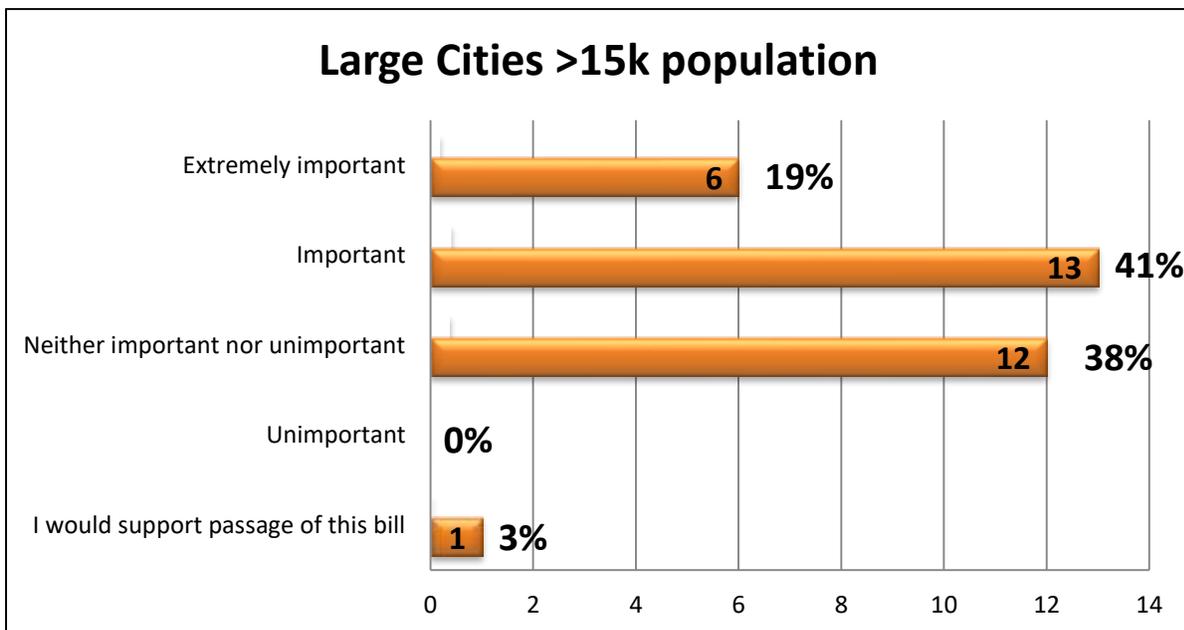
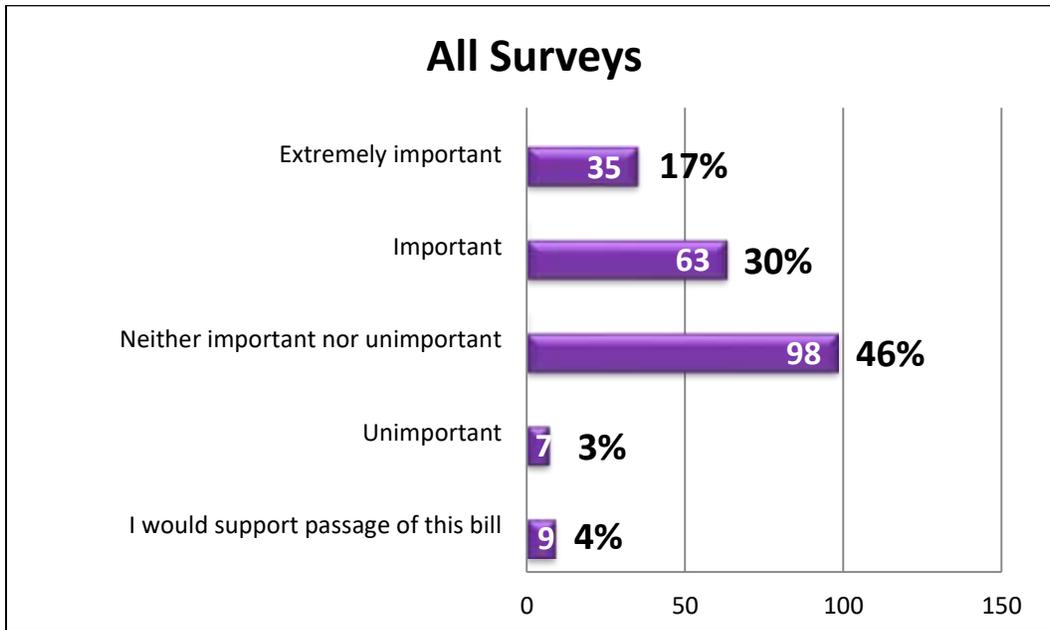
- 9) During the 2019 Legislative Session, House Bill 1297 sought to eliminate extraterritorial areas (ETAs) altogether (link to the bill text is here). The bill failed in the House. It is very likely that this bill will be introduced again in the 2021 legislative session. **Please choose the statement below that you most agree with.**

Displayed as percent of total surveys returned within category, for likewise comparison across political subdivision categories

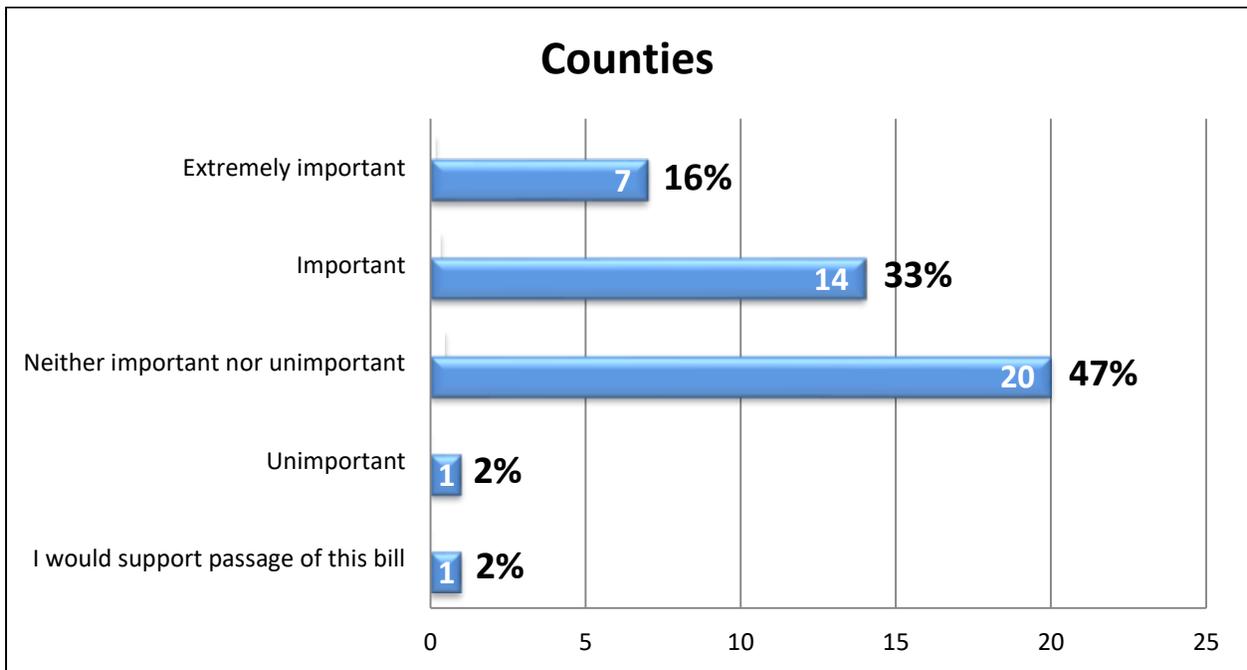
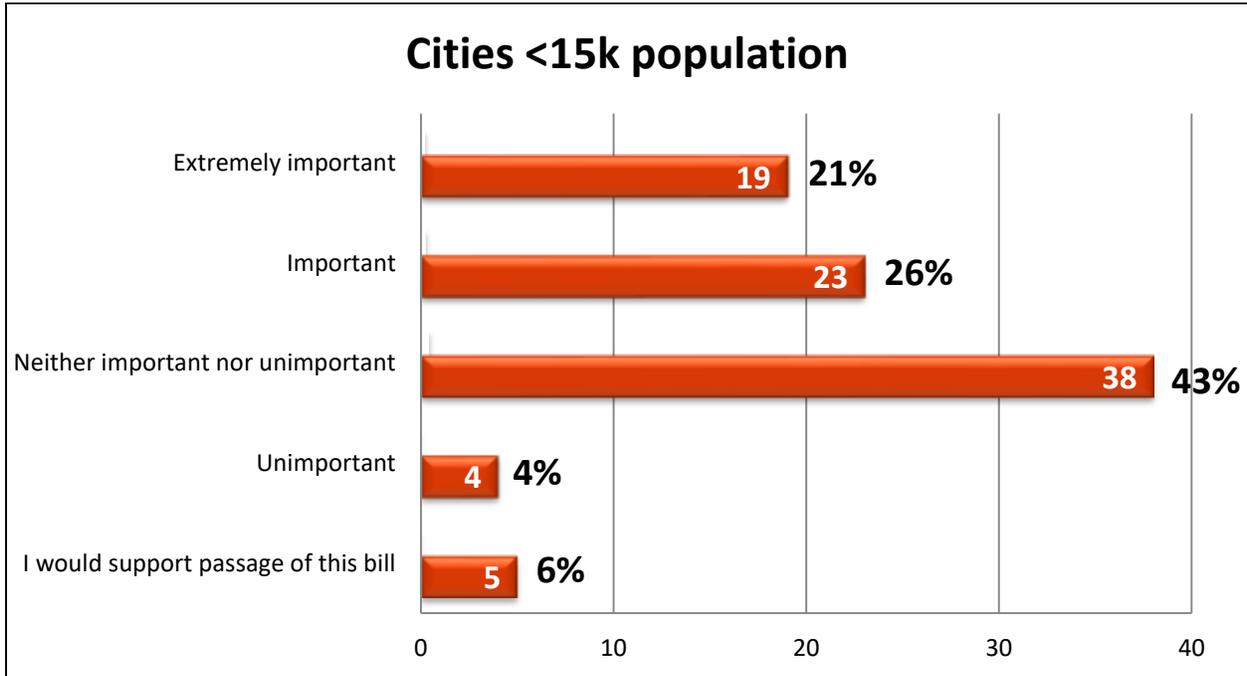


2019 ND Statewide Planning Issues & Needs Survey Results

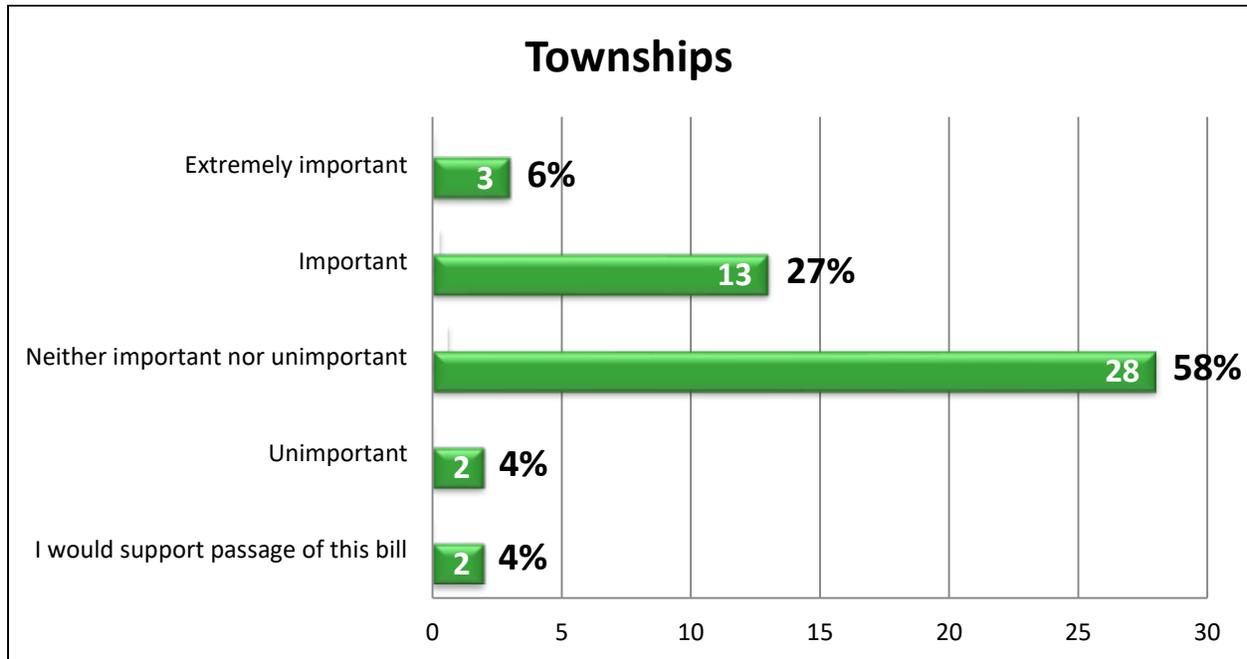
10) During the 2019 Legislative Session, House Bill 1165 sought to allow any and all non-conforming residential structures to have automatic standing to be reconstructed, even if damaged beyond 50% of market value ([hyperlink to bill text and revisions were provided in the survey](#)). Passage of the bill would essentially allow non-conforming residential structures to persist indefinitely. The bill passed the House but failed in the Senate. This bill is certain to be introduced again in the 2021 legislative session. **How important is it to you that your state association (NDPA, ND League of Cities, NDACo, or NDTOA) fight against the passage of this bill?**



2019 ND Statewide Planning Issues & Needs Survey Results



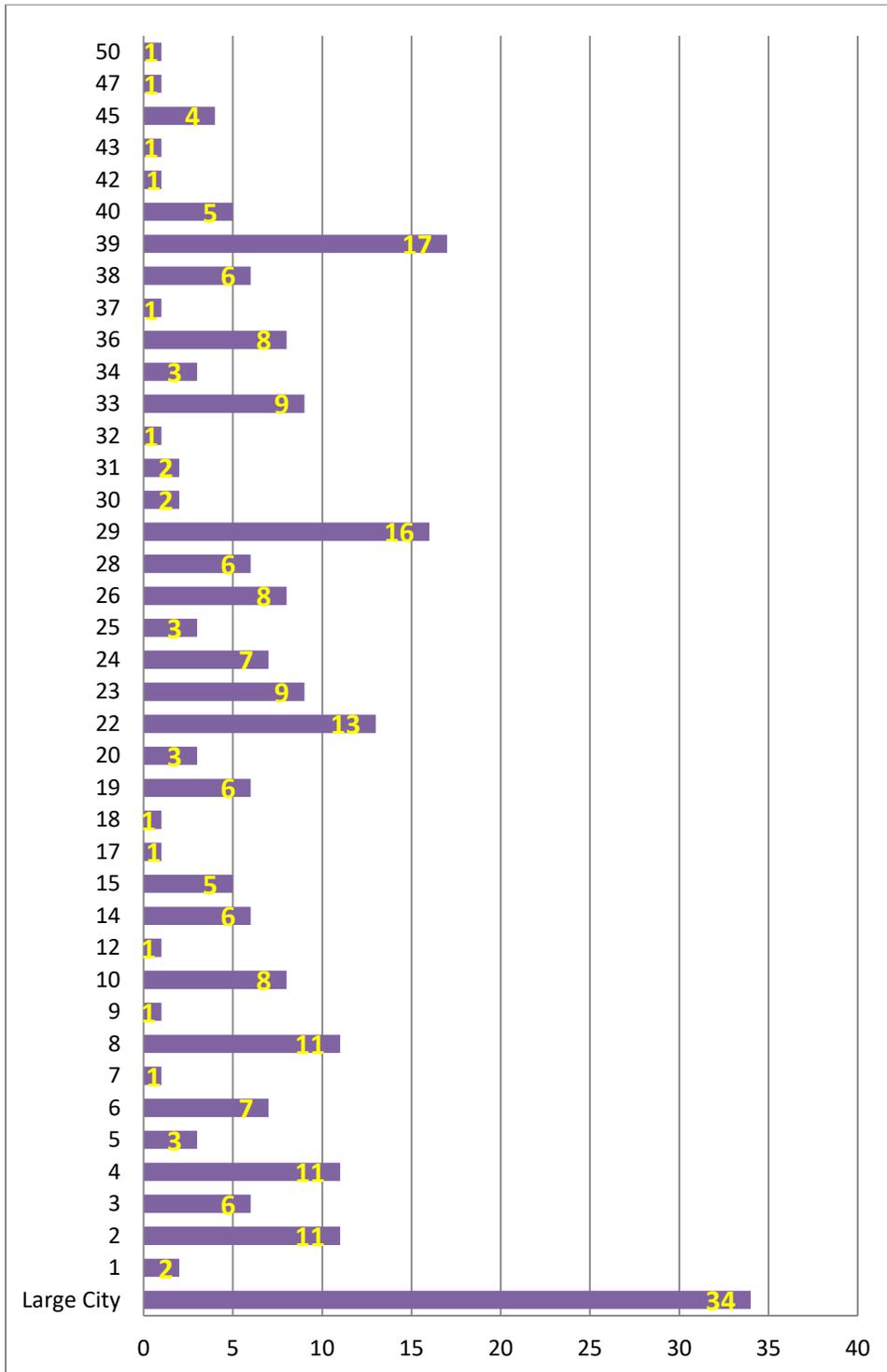
2019 ND Statewide Planning Issues & Needs Survey Results



2019 ND Statewide Planning Issues & Needs Survey Results

11) Please list the ND state legislative district(s) in which the city/county/township you represent/work for is located.

Chart displays distribution of legislative districts represented by survey responses. Some survey responses listed multiple legislative districts. Therefore the total in this chart adds up to more than 212. Survey takers were instructed to list "Large City" if they represented a political subdivision of >15k population.



2019 ND Statewide Planning Issues & Needs Survey Results

Summary of Open-Ended Survey Comments

Comments below have been consolidated from multiple survey questions that provided for an open-ended response. Comments have been worded to best fit the general intent that was stated by multiple survey takers. Comments that were mentioned in one survey only are denoted with “*Survey Comment:*” Some policy ideas were not pulled directly from the survey comments, but are offered as possible solutions to the issues that were presented in the survey comments. These possible solutions are shown in lighter gray text.

Many of the planning and zoning issues that were revealed in the survey become conspicuous in the context of extraterritorial conflicts. As such, most survey comments have been outlined within the context of the extraterritorial framework. However, these comments apply generally to the planning practices of political subdivisions.

This summary *does not include* a number of important comments made by survey respondents, related to jurisdiction-specific planning issues or issues that fall outside the strict scope of planning and zoning (such as the need to diversify and grow the economic base of ND). A copy of the 54-page report that includes full-length survey comments is available by request to natalie.pierce@mortonnd.org

Purpose of Extraterritorial Areas (based on survey comments)

Extraterritorial areas (ETAs) are essential to orderly development and keeping the fiscal impacts of development constrained. There can be a big disparity between large city resources and the resources of smaller political subdivisions. Some counties and townships have not adopted or do not enforce comprehensive plans and/or robust zoning regulations. This can result in disorderly rural development and leapfrog development. When the city eventually expands it becomes more expensive and cumbersome to extend city infrastructure to or around these areas. This results in higher costs for everyone.

Essential elements for Extraterritorial Areas to function effectively (based on survey comments)

- **Basis in sound planning:** the ETA footprint should be based on sound planning, not necessarily the arbitrary sizes currently established in the enabling state legislation. ETAs should encompass the area a city anticipates it will expand within over the planning horizon (20 to 30 years).
 - *Survey Comment:* When the ETA is for an indefinite planning horizon and may take the city 50 years to grow to, it can be difficult for county residents (living in the ETA) to see the purpose in abiding by city regulations.
 - *Survey comment:* there is sometimes tremendous political pressure on local elected officials by the developer community and the public to ignore established plans/policies and allow sprawling development anyway. It could be helpful if there were a state standard/formula for urban growth boundaries to reduce sprawl and force local compliance with local plans.
- **Adequate resources to plan:** ET authority must be accompanied by the staff resources and/or planning expertise necessary to engage in effective planning. Over and over, survey takers commented that political subdivisions with a small population base lack the resources and knowledge to be able to plan effectively. One reason for lack of staff, that was stated in the survey comments, included having a tax base that is too small to accommodate a salary line item in the budget for a full or part-time planner. Another reason cited

2019 ND Statewide Planning Issues & Needs Survey Results

was the inability of the political subdivision to attract a qualified planner to work for them.

Political subdivision staff and elected leadership must possess a basic understanding of what the enabling ET legislation allows and requires (including an understanding of where the authority of a political subdivision begins and ends). This issue could be improved in one or more of the following ways:

- 1) Pool resources with other small political subdivisions to form a planning consortium.
 - 2) Relinquish zoning authority to a political subdivision that does have the resources to plan, being sure to establish formal agreements regarding roles and adequate participation in long-range planning processes.
 - 3) **Clean up existing legislation:** Sections of Century Code that cover the various aspects of planning are, in a number of instances, internally inconsistent and unclear. This makes it that much more difficult for local leaders and staff to possess the basic legal knowledge to effectively carry out planning activities. Revising the enabling legislation to be simpler and clearer would make it easier for local leadership to acquire this knowledge.
 - 4) Increase state funding to the regional development councils so these entities could hire planning staff to serve as regional planning consultants.
 - 5) **More and better planning & zoning education** geared for small units of government. Increased cooperation among the associations (NDPA, NDLC, NDACo, NDTOA), partnerships with universities, state funding for educational resources, the formation of a planning institute, are all possibilities.
 - Developing a **webinar library that covers basic planning topics** would be helpful.
 - 6) Establish state standards for planning quality
 - Establish minimum staffing levels for a political subdivision (related to planners, building officials and code enforcement personnel)
 - Establish standards for required elements of a comprehensive plan and required frequency for updates to comprehensive plan and zoning code.
 - *Survey Comment:* Low-population areas also lack residents who are interested in serving on planning boards or in local government. All the issues generally fall on the shoulders of just a few people. Issues become overwhelming and too time-consuming to fully understand.
- **Enforcement:** survey comments stated that ET areas can become a “dumping ground” for problems that the involved jurisdictions do not want to deal with and can be a roadblock to achieving the goals of the long-range plan. Many survey respondents cited ongoing issues related to building code and zoning enforcement:
 - Lack of political will on the part of elected officials to enforce regulations.
 - Fiscal inability or unwillingness to budget for and retain qualified enforcement staff.
 - Lack of knowledge on the part of local staff or elected officials regarding the legal process for enforcement actions.

With the exception of the large cities, many local states attorneys are too busy, under-staffed, or do not prioritize the prosecution of land use violations. There is a need for explicit, clear enabling legislation. If political subdivisions could adopt ordinances whereby automatic fines (or other method) could be imposed for zoning violations (rather than having to pursue judgements in order to impose fines) it would be easier for political subdivisions to consistently enforce building code and zoning regulations.

2019 ND Statewide Planning Issues & Needs Survey Results

- **Agreements:** ET arrangements must be arrived at via agreement by all political subdivisions involved. If the perspective of a political subdivision is overpowered when the original terms of agreement are reached, there will continue to be issues over the long-term.
- **Relationships:** ETAs require active participation, relationship building, and good communication by the entities involved. Where communication, cooperation and mutual deference break down, ETs can create tensions and issues.
- **Infrastructure:** Where cities may approve residential developments in semi-rural or agricultural areas, this can over-tax the ability of townships and/or counties to maintain roads or other infrastructure related to those developments. There must be cooperation in the long-range planning process, development approval process, or agreements should be established between the two entities.
- **Consistency of regulation across political subdivisions:**
 - If developers are required to construct infrastructure related to a development, the permitting authority should require developers to meet standards that match the standards of the entity that will be responsible for maintaining the infrastructure.
 - Consistency of regulation (building codes, road standards, etc.) across political subdivisions (city, county, township) where zoning jurisdiction overlaps is best, if it is possible to achieve. For those members of the public who do not understand ET boundaries, there can be a perception that regulations are not being enforced equally, which can lead to complaints and pressure to abandon the ET legislative framework.
- **Public outreach essential:** Local political subdivisions need to engage in more and better education and outreach to the public about what ETs are for and why they are important. Citizens hold a number of beliefs about ETs that may or may not be accurate. This can lead to complaints and put pressure on elected leaders to make decisions that do not align with existing long-range plans.
 - *Survey comment:* ETA should be coordinated with education to address why they are important to cities. Simply using the argument of representation without taxation...does not address the burden to growing cities when townships do not effectively plan and consider the implications of their land use decisions. Counties should probably take a stronger role in land use decisions rather than townships who are ill equipped to adequately resource a staff position and work with growing cities. Conversely, cities should work with counties in growth management and not over extend their boundaries.
 - *Survey comment:* community members are generally opposed to change, which makes it difficult to plan for the future. Need resources to help educate the public about the role of planning and how change can be beneficial. We had some opportunities in our township that were defeated by local opposition. Need to educate residents to think bigger.
- **High-impact land uses:** For some small political subdivisions, the primary purpose of retaining ET authority is the perceived ability to exclude high-impact land uses (such as concentrated animal feeding operations, intensive industrial uses, etc.) from the land area under their zoning authority. There is need for state legislation to enable political subdivisions to develop a comprehensive and effective approach (such as the development of a high-impact land use overlay district) to buffering population centers from high-impact land uses other than having to rely on ET authority.

2019 ND Statewide Planning Issues & Needs Survey Results

Other Comments

- **Infrastructure funding alternatives:** there is a distinct need for local governments to be able to implement mechanisms other than special assessments and property taxes to pay for the development and maintenance of public infrastructure. Examples:
 - Enabling legislation for local governments to impose development impact fees
 - Low-interest (1.5%) revolving loan fund or other solution. Even an 80/20 cost share can be too high a hurdle for small communities. In small cities very high special assessments are spread over a small base, which can serve to deter people and business from moving to that city.
- *Survey comment:* Need state-level investments in industrial infrastructure like railroad lines, high-capacity water lines, natural gas pipelines etc. to help diversify where new industrial uses will locate, rather than all new industrial uses locating near existing infrastructure.
- *Survey comment:* small cities need more oil impact funding vs counties. Change the gross production tax formula to a more equitable percentage that cities bear in the Bakken.
- *Survey comment:* Large cities and the eastern side of ND seem to get an unfair share of resources that are pulled away from smaller units of government.
- Urban and rural areas are very different and there is not a one-size-fits-all policy approach.
- Need for templates of frequently used forms such as development applications, building permits, etc.
- Survey respondents pointed out a lack of affordable housing within their jurisdiction. This concern was most prevalent among cities, but was cited by county respondents, as well as one township respondent. State enabling legislation to allow political subdivisions to enact inclusionary housing ordinances would be a positive step, among other policies.

Near-term Next Steps

- **Planning Education:** the associations will be collaborating in developing and rolling out webinars and virtual planning education sessions for planning & zoning commissioners and planning staff. Based on the survey results, one of the first topics covered may be extraterritorial areas.
 - Education sessions will be a good venue to continue soliciting input from the political subdivisions regarding planning & zoning issues and suggestions for how to address them.
- **Code Enforcement Legislation:** two or more of the associations will be drafting legislation and advocating for the enabling of code enforcement mechanisms that will be clearer and make enforcement more streamlined for local officials and staff.
- **Century Code “Housekeeping” updates:** the associations’ members will be asked to provide examples, on a rolling basis, of “housekeeping” items that lack clarity in Century Code. One example: Century Code is silent on the topic of administrative review and approval for minor development items such as lot-line modifications and lot mergers. Once a comprehensive list has been assembled, the associations will look to advocate for a comprehensive update of the portions of Century Code that pertain to planning and zoning activities.