

# Michigan Township Focus

AUGUST 2019

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

## Hands off Preemptions impact local land use authority



MTA gives conditional support to nonpartisan township elections  
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Firefighter walks across the state to raise money for peers battling cancer  
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Recreational marijuana emergency rules released  
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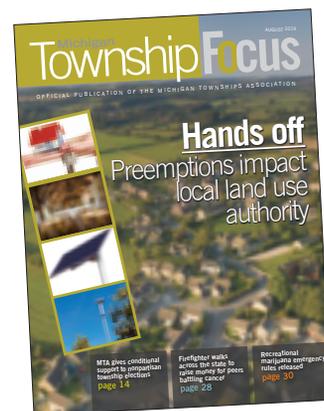


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**MTA** Official Publication of  
the Michigan Townships  
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## mission statement

The Michigan Townships Association advances local democracy by fostering township leadership and public policy essential for a strong and vibrant Michigan.

## featured articles

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### Hands off: Zoning preemptions impact local land use authority

More and more frequently, legislation and court rulings are limiting how townships can regulate myriad land use issues in their communities. Explore common areas in which township zoning regulation is preempted—and issues presented to township governance as a result.

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### Township firefighter walks across the state to raise money for peers battling cancer

Dressed in his 35-pound turnout gear and carrying an American flag, a **Macomb Township** (Macomb Co.) firefighter walked 140 miles across the state to raise money to benefit firefighters with cancer.

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### Recreational marijuana emergency rules released

The state Marijuana Regulatory Agency has released its emergency rules implementing Proposal 1 of 2018, which voters approved to legalize recreational marijuana in Michigan.

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## mta board of directors

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Al Boggs, Rome Township (Lenawee Co.), Dist. 24  
Diana Lowe, Genoa Charter Township (Livingston Co.), Dist. 25

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## president's round table

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Dear Colleagues,  
You are the local leaders of Michigan and, as part of MTA, are members of one of the largest associations of our type in the United States. Every day, your work protecting your community’s safety, financial stability and quality of life is crucial to the success of the township government model we enjoy in Michigan. Other more centralized states feature little local voice in important decisions, or at the opposite extreme, division into many very small municipalities, diluting their impact and voice.

Our township form has proven itself in Michigan for nearly 200 years, yet it is under constant attack from interest groups and others. They seek special treatment and exemptions from laws, regulations, ordinances and taxes at the financial, environmental and social cost of our residents. They seek to strip local control of the affairs best addressed by you, our democratically elected township officials, and our appointees.

While the recent budget proposes an increase in statutory revenue sharing, the state financial support we need to meet local priorities has been jeopardized in the past. We also require the fiscal ability to meet local needs with flexibility, such as through the thoughtful use of special assessments.

MTA was formed in response to such threats nearly 70 years ago and since then has worked to advance local democracy through teaching best practices, answering difficult questions across many topics, publishing guides to governing, convening all of us annually—and advocating for all 1,240 townships with one voice so that the crucial rights, needs and resources are understood and supported by our state and federal governments.

In all this time since being established, MTA has had only four executive directors. I am deeply honored to have been selected by our MTA Board as the fifth. We have an outstanding team of professionals working daily at MTA and a passionate Board composed of directors elected by your districts. Joining with them to take on our MTA mission is indeed a “dream job.”

I’ve been using the metaphor of a two-stage rocket during launch to describe our transition at MTA. As the two stages separate, there is heat and a flash of light. Just like the rocket, though, MTA’s direction and our crew’s mission won’t change.

Serving for 11 years for the **Groveland Township** (Oakland Co.) Planning Commission and on the board of review, I have deep respect for all that our township officials do—and a good introductory understanding of what we need. To learn more, I’m visiting townships, district meetings, MTA’s *Professional Development Retreats* and workshops to meet you. I’m listening to how you’re addressing current issues and opportunities, and where you need assistance. Coming up is our “On the Road” series during which we will be visiting your region; I hope to see you there (*see box at right for dates*).

Finally, every day you provide the best local government leadership, and so this column, “Daily Democracy,” is dedicated to you. In each issue of *Township Focus*, you’ll get a quick overview into the best from MTA and our broad community as we support your personal and township’s success.

Thank you very much for welcoming me into this role for our Association and for Michigan—I look forward to collaborating with you on our continued impact and progress.

- Oct. 1:** Crystal Center at Crystal Mountain, Thompsonville
- Oct. 2:** Holiday Inn, Big Rapids
- Oct. 3:** Delta Hotels Conference Center, Kalamazoo
- Oct. 8:** Riverwalk Inn, Gladwin
- Oct. 9:** Ramada Inn, Alpena
- Oct. 10:** Treetops Resort, Gaylord
- Oct. 16:** Comfort Inn Conference Center, Chelsea
- Oct. 17:** Bavarian Inn Lodge, Frankenmuth
- Oct. 22:** Memorial Union at Michigan Tech, Houghton
- Oct. 23:** Island Resort Conference Center, Harris
- Oct. 24:** Little Bear East Arena, St. Ignace

*Neil Sheridan*



## AD RULES

### State releases guidance on marketing/advertising restrictions for medical marijuana facilities

The state Marijuana Regulatory Agency (MRA) recently released guidance on advertising restrictions for marijuana facilities.

State law regulates marijuana facilities' advertising and marketing. A marijuana facility must comply with all municipal ordinances, and state laws and administrative rules that regulate signs and advertising. A licensee may not use deceptive, false or misleading advertising in any way, including on any marijuana product, sign or document. Marijuana products may not be advertised in a manner that is visible to members of the public from streets, sidewalks, parks or any public place, and cannot be marketed or advertised to minors aged 17 years or younger. Marijuana products also cannot be advertised on any television or radio program, website, or print publication unless there is reliable evidence that 70 percent of the audience is reasonably expected to be age 18 years or older (and any marijuana products advertised in this way must include a specific prescribed warning label).

In addition, marijuana products must be marketed or advertised as "medical marijuana" for use only by registered qualifying patients or registered primary caregivers. According to state law, a provisioning center licensed under the Medical Marijuana Facilities Licensing Act (MMFLA) may not refer to itself as a "dispensary" and may not use the word "dispensary" in its advertising.

Questions? Contact the MRA Enforcement Section via email at [MRA-Enforcement@michigan.gov](mailto:MRA-Enforcement@michigan.gov). For additional information and resources on townships and marijuana and Michigan, visit MTA's "Marijuana Resources" Web page on the members-only side of [www.michigantownships.org](http://www.michigantownships.org).

## SAVING \$\$\$

### State purchasing program can help townships save costs

Townships can save both time and money by using contracts that are already competitively bid and negotiated by the state of Michigan. The MiDEAL Extended Purchasing Program allows local units of government to benefit from the State of Michigan's negotiating and purchasing power by permitting them to purchase from the state's contracts on the same terms, conditions and prices as state government.

More than 400 contracts, ranging from homeland security equipment and services to park equipment, and even healthcare benefits, are available to MiDEAL members. The average savings to MiDEAL members who use these contracts is 25 percent.

Frequently used contracts include:

- Office supplies
- Cellular phones
- Fuel and gas
- Vehicles
- Computers
- Road salt
- Furniture

New products and services are frequently added to the program.

Annual membership fees range from \$180 to \$510 depending on the size of the township. For further information and the complete contract list, visit [www.michigan.gov/mideal](http://www.michigan.gov/mideal) or email [mideal@michigan.gov](mailto:mideal@michigan.gov).



Watch your email or visit [www.michigantownships.org/township\\_talk.asp](http://www.michigantownships.org/township_talk.asp) to listen to new and past episodes!

MTA's podcast, **Township Talk**, helps keep our member township officials—as well as lawmakers and the public—better informed on issues impacting local government.

STATE SHUFFLE

### State TED Department renamed, restructured

The state Department of Talent and Economic Development has been renamed the Department of Labor and Economic Opportunity, and several functions that townships may utilize and with which they may interact have been shuffled as well, under an executive order from Gov. Gretchen Whitmer.

The new department includes the Michigan State Housing Development Authority, Michigan Strategic Fund, State Historic Preservation Office and State Land Bank Authority, among other entities.

The executive order also abolishes the Michigan Compensation Appellate Commission and instead creates new, separate commissions to handle appeals of decisions in workers' compensation and unemployment insurance cases. Several functions previously within the state Department of Licensing and Regulatory Affairs were also transferred to the new department, including the Unemployment Insurance Agency, Employment Relations Commission, workers' compensation Board of Magistrates and the Workers' Compensation Agency.

The changes go into effect Aug. 11.

LOCAL UPDATES FROM ACROSS MICHIGAN

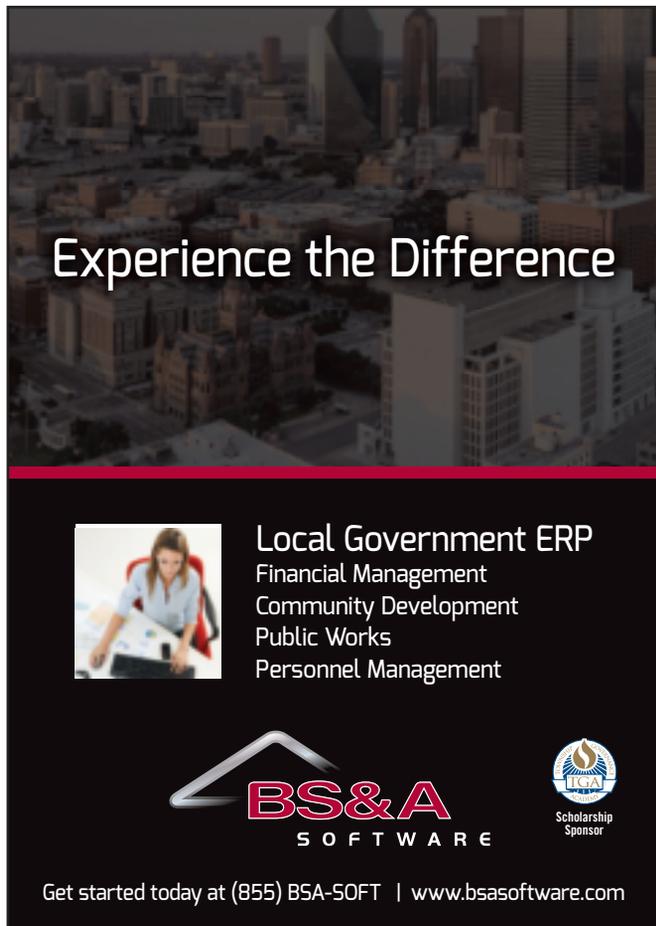
### Township happenings

The Michigan Department of Natural Resources Aquatic Habitat Grants Program, which is designed to support Michigan's valuable fisheries, awarded **Columbus Township** (St. Clair Co.) nearly \$450,000 to rehabilitate over 2,000 feet of the Belle River for native mussels and anadromous fish.

The first phase of the Mosquito Creek Trails opened in **Egelston Township** (Muskegon Co.). The trail system is designed for all recreation and skill level of mountain bikers. While Michigan's Edge Mountain Biking Association created the trail with mountain bikers in mind, it is a multi-use trail. The project began in 2016 on what will be a 12-mile, multi-skill level, multi-loop, year-round sustainable trail system.

The Michigan Department of Agriculture and Rural Development awarded grants to support infrastructure that benefits rural communities and sustainability of land-based industries in **Powell Township** (Marquette Co.) for \$43,000 to convert a nine-mile path for year-round use, and to **Republic Township** (Marquette Co.) for \$100,000 for creation of the Iron Ore Heritage Trailhead building for tourists in Marquette County.

Email YOUR Township Happenings to [jenn@michigantownships.org](mailto:jenn@michigantownships.org). Add MTA to your newsletter mailing list! Mail to MTA, Attn. Jenn Fiedler, PO Box 80078, Lansing, MI 48908-0078, or email to [jenn@michigantownships.org](mailto:jenn@michigantownships.org).



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*"They are integrally involved with the day-to-day operations of the township. They anticipate what the impacts will be for the township and make recommendations on how to deal with them."*  
 —Township Supervisor



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## MTA Board welcomes new directors

Two new District directors have joined the MTA Board. Following an application process, the two new Board members were selected by the MTA Executive Committee, followed by approval of the full Board at its June 14 meeting.

**Mary Segalin, Ironwood Charter Township** (Gogebic Co.) clerk, is the new MTA District 1 director. She replaces **Steve Karpiaik Jr., Osceola Township** (Houghton Co.) supervisor, who retired from township government last month. District 1 encompasses Gogebic, Houghton, Keewenaw and Ontonagon Counties.



Segalin

Segalin is a life-long resident of Ironwood Charter Township, and has been involved in her township for more than 30 years. She was Ironwood Charter Township deputy treasurer/secretary for five years, beginning in 1987. In 1992, she was elected township treasurer, a position she also held for five years. She has been clerk since 2015.

Segalin has also served as both secretary and treasurer of the Western U.P. Convention & Visitors Bureau.

As district director, Segalin said she hopes to help local officials stay current on legislative policies that MTA pursues and educate them on the resources that MTA provides.

“Being District 1 director in a very rural area of Michigan’s Upper Peninsula, I would also like to support officials who do not have the resources to achieve success and stability in their communities,” she said. “I have many years of experience in township government, and have a deep understanding of township government, politics and the important role of MTA. I believe I can contribute to the MTA Board because of this broad and diverse experience.”

**Williams Charter Township** (Bay Co.) Trustee **Tom Paige** re-joins the MTA Board as District 13 director. He replaces **Dennis Bragiell**, former supervisor for **Kawkawlin Township** (Bay Co.), who is now serving as the township’s zoning administrator.



Paige

Paige, who previously served as district director for two years until 2011, has been trustee since 2009. He served as township supervisor for nine years, from 2000 to 2009.

“I have a passion for township government and truly believe that MTA’s mission is spot-on and more critical than ever at this time in our history,” Paige said. “Two-way

communication with members is important in deliberating and developing good public policy. Providing educational opportunities is essential to fostering leadership among the membership and to assisting members in their positions as elected officials, and as administrators for supervisors, clerks and treasurers.

“As a lifelong learner, I believe the experiences I have gained through my private and public careers align well with the range and experience needed to be actively engaged and participate as a Board member in developing sound public policy.”

Paige was assistant director, and later director, of the Bay County Department of Water and Sewer for eight years. The department provides high-quality water to roughly 100,000 residents, supplying to 19 public water systems including 11 townships. The department also processes wastewater from eight wastewater systems in Bay County, including six townships.

Paige also served as secretary, vice president and president of the Bay County Township Officers Association, chair and director of Bay Future, Inc., and as a trustee on the Bay City Public School Board.

District 13 encompasses Bay, Gladwin and Midland Counties.



## PLANNINGMICHIGAN 2019 September 25-27 | [planningmi.org](http://planningmi.org)

The Michigan Association of Planning’s annual conference in beautiful downtown Kalamazoo offers sessions customized for township planning and zoning officials including a comprehensive zoning administrator workshop, a panel of township experts moderated by MTA’s own Executive Director, an opportunity to take the MSU Extension Citizen Planner Program in only three days, relevant national speakers and a variety of mobile workshops.

Learn more at [planningmi.org/planning-michigan-conference](http://planningmi.org/planning-michigan-conference)



Sen. Jim Stamas (R-Midland Chtr. Twp.) and Rep. Gary Howell (R-North Branch) received MTA “Legislator of the Year” awards from former MTA Executive Director Larry Merrill and 2019 MTA President Jeff Sorensen at the June MTA Board of Directors meeting. (Pictured above, from left, are Merrill, Stamas, Sorensen and Howell.)

## Stamas, Howell honored as MTA ‘Legislators of the Year’

MTA recognized Sen. Jim Stamas (R-Midland Chtr. Twp.) and Rep. Gary Howell (R-North Branch) for their support of township government by presenting them with MTA “Legislator of the Year” awards. Both Stamas and Howell received the prestigious award, which honors lawmakers who are instrumental in legislation impacting township government and who work diligently on townships’ behalf, at the MTA Board of Directors’ June meeting.

“Sen. Stamas and Rep. Gary Howell consistently put good public policy before partisan politics,” MTA Director of Government Relations Judy Allen said. “Both have gone above and beyond to not only listen to township input, but also taking what they’ve heard and using it to shape legislation. Their work was instrumental in the passage of key bills, from assessing reform to including township voices in the purchase of state land.”

Now in his final Senate term, Stamas has a long history of serving Michigan residents, including as a **Midland Charter Township** (Midland Co.) trustee and on the Midland County Board of Commissioners. He served three terms in the state House of Representative before he was elected to the Senate, where he currently serves as chair of the Senate Appropriations Committee.

Throughout his years in the Legislature, Stamas has played a crucial role in passing legislation impacting townships. Last year, he led the charge to reform Michigan’s assessing system, holding multiple meetings with local officials around the state, listening to their concerns and working with MTA to craft a bill that won MTA’s support. He also provided the momentum needed in the lame-duck session to pass the extension and long-sought-after expansion of the pension bonding tool for local units.

“As a former township trustee who now represents 110 townships in the Senate, it’s an honor to be recognized for supporting the important role our townships play in the daily lives of millions of Michigan families,” Stamas said. “I look forward to continuing to work with the Michigan Townships Association and all their members to improve our local communities and the entire state for families, workers and job creators.”

Howell, a second-term representative, has a rich history in township government, including 40 years as a township, city and village attorney and five years as **Flint Charter Township** (Genesee Co.) trustee and planning commissioner. He can always be counted upon to bring the local government perspective to legislative discussions, and he’s ready and willing to work to advance the best legislation possible for township government. Since coming to Lansing, he has diligently worked with MTA and other local government organizations to support local control and provide alternatives to local preemption.

Thanks to Howell’s tireless efforts, the Legislature reached a resolution to the long-standing state land cap issue. Throughout the process, he worked to ensure that townships had a voice when state land was purchased in their jurisdictions.

“It is a high honor to be named legislator of the year by the Michigan Townships Association,” Howell said. “Having been involved in township government my entire adult life and having worked closely with this vital organization, I realize how extremely important it is to have representation in Lansing to safeguard local citizen control. I look forward to continuing to work closely with MTA on future legislative issues. I truly hope that local government officials realize the effective work that this organization performs day by day on their behalf.”

## mta events | August

14 Hot Topics in Planning & Zoning workshop, Kalamazoo

20 Hot Topics in Planning & Zoning workshop, Frankenmuth

22 Hot Topics in Planning & Zoning workshop, St. Ignace

27 Hot Topics in Planning & Zoning workshop, Cadillac

## Karpiak, Bragiel honored for service on MTA Board

Two past members of the MTA Board of Directors—**Steve Karpiak Jr.** and **Dennis Bragiel**—were honored for their service to the Association and Michigan’s townships with MTA Service Awards. 2019 MTA President **Jeff Sorensen** (pictured at left, far left) presented the awards at the June MTA Board meeting.



**Karpiak** (pictured at left, far right) was first elected to serve as MTA District 1 director, encompassing

Gogebic, Houghton, Keweenaw and Ontonagon Counties, in 2014. He served as **Osceola Township** supervisor from 2004 until his retirement July 1.

Bragiel served as MTA District 13 director, representing Bay, Gladwin and Midland Counties, for six years, beginning

in 2013. He was first elected **Kawkawlin Township** (Bay Co.) supervisor in 2008. He is now the township zoning administrator. He has been a Bay City School District volunteer for 27 years—including serving as Bay City Western Booster Club treasurer and as the “Voice of the Warriors” football and wrestling announcer.

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## Reminder: Keep your contact info up to date with MTA

Ensure that your township's important MTA resources and information are coming to the correct person and address by helping MTA keep its database up to date with your current contact information.

MTA-member officials can directly update their profile information via our website, [www.michigantownships.org](http://www.michigantownships.org). Simply log in to the members-only portion of the website using your email address on file with MTA and password. After logging in, select "My Profile" under the "My MTA" tab to get started.

**Got a new township board member?** The township clerk can make adjustments to the profile information—including adding a new official whenever a new township official joins the board, or marking a former official for removal from the database. (When adding a new official, **do not** to overwrite the former official's information with the new official's name and information. Contact MTA with questions.) These efforts will help ensure that the right information goes to the right person.

**Keeping up-to-date information—including email addresses—on file with MTA is critical to ensure all officials are getting the most out of their Association membership.** If we have the incorrect email address, officials are missing out on valuable legislative updates and information in our e-newsletters, *Township Insights* and *Township Voice*, as well as notices about educational seminars and other opportunities for today's township officials. Your email address also serves as your username to access the members-only portion of MTA's website, as well as *Community Connection*, our private online networking community exclusively for MTA member officials.

Changes can also be submitted to [elsa@michigan-townships.org](mailto:elsa@michigan-townships.org), or by calling (517) 321-6467 or faxing to (517) 321-8908.

# profile



Advertorial

## Mika Meyers PLC

### Privileged to serve MTA and its member townships

Mika Meyers PLC is privileged to serve the Michigan Townships Association and its member townships as an Allied Service Provider.



Located in Grand Rapids for more than 60 years, the firm represents numerous Michigan townships and other municipal entities. During this time, Mika Meyers has been engaged as general or special legal counsel to represent the interests of more than 100 townships located throughout the state on a wide range of challenging legal matters. The firm provides its municipal clients, without charge, a printed or electronic newsletter every other month on current matters involving local government law and cases. The articles contained in the newsletters are available on the Mika Meyers website. To sign up to receive these newsletters, visit [www.mikameyers.com/news/signup](http://www.mikameyers.com/news/signup).

Continuing education is critical in our ever-changing world. The Michigan Townships Association serves a vital educational function for Michigan townships. Similarly, Mika Meyers' local government lawyers keep abreast of changes in state and federal law and judicial and administrative decisions that impact townships and their elected officials. Mika Meyers PLC is proud to support the continuing education of its township clients, their elected officials and the members of the Association through its involvement as an Allied Service Provider.

For more information regarding Mika Meyers, visit [www.mikameyers.com](http://www.mikameyers.com), or see their ad on page 27.

Opinions expressed within do not represent the views of MTA, its Board or members. Participation in the Allied Service Provider program does not constitute or imply MTA's endorsement of the company or its products/services. For more information, turn to the Allied Service Provider Index on page 2 or visit [www.michigantownships.org/asp.asp](http://www.michigantownships.org/asp.asp).

### AUGUST

**By 1** Public accuracy test must be conducted for Aug. 6 election by local election commission. (R 168.778) Notice of test must be published at least 48 hours before test. (MCL 168.798)

**1** Deadline for local school districts and intermediate school districts to file Form 5451 *2019 Debt Millage Rate for Personal Property Tax Reimbursement to School District or Intermediate School District*. (MCL 123.1353(4))

Deadline for local school districts to file Form 5609 *2019 Hold Harmless Millage Rate for Personal Property Tax Reimbursement*. (MCL 123.1353(4))

Deadline for township or local authority to file Form 5608 *Portion of 2018 Essential Services Millage Rate Dedicated for Cost of Essential Services*. (MCL 123.1353(7))

Deadline for a municipality to file Form 5613 *Millage Rate Correction for 2019 Personal Property Tax Reimbursement Calculations*. (MCL 123.1358(4))

**2** Electors may obtain an absentee voter ballot for the Aug. 6 election via first-class mail until 5 p.m. (MCL 168.759)

**5** Electors may obtain an absentee voter ballot for Aug. 6 election in person in the clerk's office until 4 p.m. (MCL 168.761)

**6** Emergency absentee voting for Aug. 6 election until 4 p.m. (MCL 168.759b)

Election.

Election Day registrants may obtain and vote an absentee voter ballot in person in the clerk's office or vote in person in the proper precinct. (MCL 168.761)

**7** Candidates without political party affiliation who seek a partisan office on the Nov. 5 ballot file qualifying petitions and Affidavits of Identity by 5 p.m. (MCL 168.590c) Withdrawal deadline elapses at 4 p.m. on Aug. 12.

**8** Boards of county canvassers meet to canvass Aug. 6 election by 9 a.m. (MCL 168.821)

**13** Ballot wording of proposals qualified to appear on Nov. 5 ballot certified to county and local clerks by 4 p.m. (MCL 168.646a)

**By 15** Clerk forwards names and addresses of candidates without political party affiliation who seek a partisan office on Nov. 5 ballot to county clerk. (MCL 168.321)

**15** Deadline for electronically paying and filing the essential services assessment with the state Department of Treasury without interest and penalty. (MCL 211.1057)

**By 19** *By the third Monday in August.* Deadline for taxpayer to file appeal directly with the

Michigan Tax Tribunal if final equalization multiplier exceeds tentative multiplier and a taxpayer's assessment as equalized is an in excess of 50 percent of true cash value. (MCL 205.737(7))

### SEPTEMBER

**16** Summer taxes due. (MCL 211.107) *Sept. 14 is a Saturday; Sept. 15 is a Sunday.*

Interest of 1 percent per month will accrue if the payment is late for the State Education Tax and county taxes that are part of the summer tax collection. (MCLs 211.905b(9) and 211.44a(6))

**17** Last day of deferral period for summer property tax levies, if the deferral is for qualified taxpayers. (MCL 211.51(7))

**By 21** Clerks shall electronically transmit or mail (as requested) an absentee voter ballot for Nov. 5 election to each absent uniformed services or overseas voter who applied for an absentee voter ballot 45 days or more before the election. (MCL 168.759a)

Absentee voter ballots for Nov. 5 election must be available for issuance to voters. (MCL 168.714)

**26** *through Oct. 15.* Precinct inspectors appointed by local election commission for Nov. 5 election. (MCL 168.674)

**30** Township clerk delivers to supervisor and county clerk a certified copy of all statements, certificates, and records of vote directing monies to be raised by taxation of property. (MCL 211.36(1))

Financial officer of each township computes tax rates in accordance with MCLs 211.34d and 211.34, and governing body certifies that rates comply with Section 31, Article 9, of 1963 Constitution and MCL 211.24e, Truth in Taxation, on State Tax Commission Form L-4029 on or before Sept. 30.





## Who is required to take the oath of office?

Many township positions are required to take the oath of office. The oath must be taken before performing the duties of the office. The oath of office must be taken whenever one of the officials listed below is originally elected or appointed, and every other time the official is reelected or reappointed. This is true for both elected officials and those appointed to fill a vacancy:

- Supervisor (MCLs 168.363, 168.358)
- Clerk (MCLs 168.363, 168.358)
- Treasurer (MCLs 168.363, 168.358)
- Trustee (MCLs 168.363, 168.358)
- Deputy supervisor (MCL 41.61)
- Deputy clerk (MCL 41.69)
- Deputy treasurer (MCL 41.77)
- Assessor (per IRS/MTA Legal Counsel)
- Board of review (MCL 211.28—must take oath within 10 days of appointment)
- Election inspector (MCL 168.680)
- Library board (MCLs 168.363, 168.358)
- Park commission (MCLs 168.363, 168.358)
- Downtown development authority (MCL 125.1654)
- Constable (MCLs 168.363, 168.358)
- Commissioner of noxious weeds (MCL 247.61)

(Not an exhaustive list; other officials or bodies may be required to take the oath.)



## Is it okay to give the oath to someone who is not required to take it?

Yes, in fact, MTA recommends giving the oath to the following positions:

- Planning commission
- Zoning board of appeals
- Superintendent or manager
- Ordinance enforcement officer
- Construction code inspectors
- Fire and/or police chief
- Fire administrative board
- Officials compensation commission
- Historical commission
- Economic development commission
- Recreation commission
- Fence viewer
- Others, as township board policy indicates



## Why give the oath of office if it is not required?

Taking the oath tends to lend credibility to the position to which a person has just been appointed or assigned. It also provides an opportunity to create a “paper trail” for the township board to the date of appointment and, therefore, to the expiration date of that person’s appointment so the board knows when to make future appointments.



## Who has authority to administer oaths to township officials?

- Township clerk/deputy clerk (MCL 168.363)
- Township supervisor/deputy supervisor (MCL 41.64b, 16.363)
- County clerk/deputy county clerk (MCLs 45.323, 551.103)
- Notary public (MCLs 55.285, 168.504)
- Judge/justice (of any court of record) (MCLs 15.37, 600.1440, 600.1455, 600.8317)
- State senator (MCL 4.121)
- State representative (MCL 4.121)



## How do you keep track of whether someone took the oath?

The signed oath document must be filed with the township clerk. If an official other than the clerk administers the oath, the original oath affidavit or a copy of the affidavit must be provided to the township clerk for official township records.



## What is a person actually swearing to when they take the oath—and what if a person does not believe in “swearing”?

A person may “affirm” or swear when taking the oath. Here is the language of the oath of office, as set by Article XI, §1 of the Michigan Constitution of 1963, which states that “All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation” and “No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust”:

*“I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability.”*

*Hello, MTA ... ?* provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.

## Small buildings exempt from multi-line phone system upgrade requirement

Townships with halls under 7,000 square feet will be exempt from a requirement that businesses upgrade their multi-line phone systems to show the location of each phone.

Public Act 30 of 2019, sponsored by Michelle Hoitenga (R-Manton), was introduced to exempt smaller buildings and to push back the time period for required upgrades for multi-line telephone systems (MLTS) operators. Currently, emergency dispatchers can only see the caller's building address, not their location inside the building. The extra seconds or minutes it takes first responders to find the caller can mean the difference between life and death.

Prior to the change, all MLTS operators were required to install equipment to provide the specific call location information within a building for a 911 call. The new law extends the time frame for single-floor businesses with multi-line phone systems with less than 20,000 square feet and fewer than 20 phones to upgrade their equipment after Jan. 1, 2020. Entities in buildings of 7,000 square feet or less are now exempt from the equipment update requirement.

## New acts work to prevent overdose deaths

Local governments can purchase and train their employees to use anti-overdose drugs under a number of recently enacted bills.

Public Acts 36, 37, 38 and 39 of 2019 create the Administration of Opioid Antagonists Act, allowing a governmental agency to purchase and possess an opioid antagonist and distribute it to an employee or agent trained in its use to administer if he or she had reason to believe someone was experiencing an overdose. The local unit and employee would be exempt from civil liability and criminal prosecution if they acted in good faith.

The new laws repeal PA 462 of 2014—which provided access to opioid antagonists for certain law enforcement agencies and police officers—and are part of an ongoing effort to prevent opioid overdose deaths.

The new measure allows prescribers to distribute the drug to an employee or agent of an agency authorized to purchase, possess and distribute an opioid antagonist. The new acts took effect on June 26.

## Managers could be appointed to oversee TIF authority

A township supervisor could designate someone else to oversee a tax increment finance (TIF) authority under Public Act 29 of 2019.

The new law, sponsored by Rep. Ben Frederick (R-Owosso) and supported by MTA, will allow township supervisors to appoint someone such as a township manager to the role, providing them with more options.

The measure took effect on June 25.

## Mining committee to include municipal representation

A new committee focused on making mining more sustainable and diverse will include a local government representative.

Public Act 47 of 2019, sponsored by Rep. Sara Cambensy (D-Marquette) and supported by MTA, creates the Committee on Michigan's Mining and takes effect Oct. 6, 2019. The committee, effective for two years, is tasked with recommending policies and strategies to enhance mining while protecting the environment and natural resources. Committee members will include representatives from a variety of mining operations, as well as environmental nonprofit organizations, Michigan universities, state department directors, legislators and other stakeholders. MTA was able to negotiate an amendment early in the process for local government representation on the committee.

## Tax foreclosure avoidance agreements can continue

County treasurers can continue entering into tax foreclosure avoidance agreements under Public Act 35 of 2019. The law allowing these agreements for up to five years with owners of property with delinquent taxes was set to expire on June 30, 2019. The legislation, sponsored by Rep. Wendell Byrd (D-Detroit), extends the practice of potentially avoiding foreclosures and collecting existing property taxes for an additional seven years—until June 30, 2026. MTA monitored the legislation, which took effect on June 26.

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## Legislative lowdown

A quick look at critical bills that MTA is following as they move through the legislative process. For a complete list, head to MTA's "Legislative Action Center" on the members portion of [www.michigantownships.org](http://www.michigantownships.org), or look to our weekly and monthly e-newsletters sent to all MTA member officials.

**SB 14: Drinking water standards**—Provides for maximum PFAS contaminant levels allowed for drinking water standards. *MTA monitoring.*

**SB 19: Public employees and officers**—Modifies population thresholds for contracts of public servants serving as public safety officers. *MTA supports.*

**SB 26, HBs 4025 & 4047: Property tax**—Requires Michigan Tax Tribunal determinations to consider all three methods of appraisal in assessment disputes and prohibits deed restrictions on valuation of property. *MTA supports.*

**SB 28: Motor fuel tax**—Requires motor fuel tax to be dispersed to county where fuel is pumped. *MTA monitoring.*

**SBs 31-32: Recreation passport**—Expands current recreation passport program to include trails and state forest campgrounds. *MTA monitoring.*

**SB 39: Property tax assessments**—Excludes private deed restrictions from being considered by the Michigan Tax Tribunal if they substantially impair the highest and best use of property as compared to property subject to assessment. *MTA supports.*

**SB 46: Property tax assessments**—Clarifies valuation of wind energy systems. *MTA supports.*

**SBs 47-48 & HBs 4069 & 4465: Alternative energy personal property**—Provides personal property tax exemption for alternative energy systems up to specific threshold. *MTA neutral.*

**SB 54 & HB 4100: Historic preservation tax credit**—Restores the state historic preservation tax credit program. *MTA supports.*

**SB 78: Elections**—Requires ballot instructions to be printed on ballot. *MTA monitoring.*

**SBs 79, 117 & 297: Elections**—Revises procedure for returning absentee ballots for military personnel. *MTA monitoring.*

**SB 104: Open Meetings Act**—Allows additional remedies for noncompliance to include attorney fees and allows a one-year window during which civil actions may be brought. *MTA opposes.*

**HB 4035: Local preemption**—Prohibits local regulation of dogs based upon breed or perceived breed. *MTA opposes.*

**HB 4046: Land use/zoning preemption**—Limits local zoning regulation of vacation rentals and short-term rentals. *MTA opposes.*

**HB 4083: Sanctuary cities**—Prohibits local laws that prevent local officials from cooperating with federal authorities regarding an individual's immigration status. *MTA opposes.*

**HB 4091: Neighborhood Enterprise Zones**—Modifies eligibility requirements to qualify as a rehabilitated facility. *MTA supports.*

**HB 4095: Land use/zoning preemption**—Preempts local zoning authority for child foster care institutions for a state licensed facility up to 10 children. *MTA opposes.*

**HB 4185: Destruction of property**—Adds willfully and maliciously destroying or damaging the real property of a fire, sheriff or police department to the current prohibition regarding a fire or police department's personal property. *MTA supports.*

**HB 4209: Township treasurer designee**—Allows the township treasurer to appoint a designee to act on their behalf for tax collection purposes under certain conditions. *MTA supports.*

**HB 4268: Broadband personal property exemption**—Creates a personal property tax exemption for new broadband equipment that resolves lack of broadband service. *MTA opposes.*

**HB 4408: Recreational authority audit**—Modifies the requirement for an annual audit based on whether a recreational authority levies and collects a millage. *MTA supports.*

**HB 4468: Freedom of Information Act**—Allows a person making a FOIA request to request any written response be made by first-class mail, fax or email, if the public body has the technological capacity to provide the documents and response electronically. *MTA neutral.*

**HB 4454: Unlawful dumping**—Revises criminal penalties and civil fines for unlawful dumping of garbage. *MTA supports.*

**HBs 4554-4563: Short-term rental**—Creates the Short-term Rental Promotion Act requiring registry of short-term rentals and retains local zoning authority. *MTA supports.*

**HB 4691: Municipal stormwater utilities**—Creates a new act to provide for and authorize a fee for municipal stormwater utilities. *MTA supports.*

**HB 4692: Drains and sewers**—Specifies rainfall levels and what constitutes a sewage system defect for liability for overflow or backups. *MTA supports.*

**HB 4800: Transportation funding**—Allocates a portion of revenue from vehicle registration fees to township, city or village where registrant resides for road funding. *MTA supports.*



## MTA gives conditional support to nonpartisan township elections

**E**arlier this year, MTA sought the input of member boards on legislation allowing townships the option for township offices to be elected nonpartisan. The action was based on a proposed bill to make nonpartisan township offices optional to townships.

The MTA Board of Directors requested member township boards discuss the proposal and take a position on the issue. MTA's goal in taking this unusual step was to ensure the issue be framed in terms of a position that best reflects the values of townships as communities, as opposed to what is in the best political interests of incumbent officials.

With 271 township boards responding, the results were about as evenly split as they could be:

- 100 support
- 102 oppose
- 19 neutral
- 50 were unclear/not adopted (the motion to support or oppose was defeated and no subsequent resolution was adopted to establish a position)

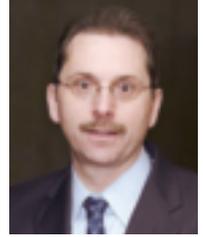
While it is clear that township officials are split as to preferring partisan or nonpartisan elections in their own townships, the MTA Board inferred from the responses that many of those township boards that opposed nonpartisan elections were expressing that view in terms of their own townships, and not necessarily opposing nonpartisan elections in other townships. At the very least, the divided positions fairly indicate that partisan elections are not widely perceived as a core value of Michigan township government.

Consequently, the MTA Board of Directors decided to support the concept of nonpartisan elections as a *permissive option* for townships. This position was adopted as being most consistent with MTA's core value of local control. However, MTA's support is conditional.

First, nonpartisan township elections should ultimately be decided by a township's electors at an election, not by the township board. This position is based on another MTA core value, local democracy, as well as the Board's belief that the decision should reflect individual community values rather than political expediency or to the advantage of incumbent officials. Partisan elections would continue in townships unless the voters approved the change in a local election. Other issues could emerge that impact MTA's position on the bill as well.

At this point, nonpartisan township elections are at the conceptual stage, but the bill sponsor has indicated that the legislation will soon be introduced. Additional details will likely need further discussion, such as a minimum number of years between elections at which nonpartisan elections are considered.

MTA will keep members informed when this bill is introduced.



When our township received notice that our state grant application was approved, the granting agency indicated that a portion of the funds are from the federal government, and the township may be subject to the Single Audit Act. Does this affect our annual audit, and if yes, how?

The Single Audit Act of 1984 requires most governmental recipients of federal assistance, such as state and local governments, to have organization-wide financial and compliance audits on an annual basis. These audits require an independent public accountant to perform tests of internal controls and compliance with federal programs, and report on:

- Material weaknesses or significant deficiencies in the controls over federal financial assistance programs
- Findings and questioned costs
- Express an opinion on compliance with “major federal programs”



Does any amount of indirect or direct federal grants trigger this audit?

No. In late 2013, the federal Office of Management and Budget (OMB) issued what is now referred to as “Uniform Grant Guidance.” Among other things, the guidance increased the audit threshold to \$750,000 for auditee fiscal years beginning on or after Dec. 26, 2014, and made changes to the “major program” determination process.

The threshold is measured in terms of “expenditures of federal funds,” so the actual receipt of the funds doesn’t trigger the audit—it is the expenditure of the funds.

Major programs get special attention during the Single Audit process, as the auditors (who are responsible to determine major programs) must express an opinion on the township’s compliance with federal regulation over these programs. Additionally, the auditors will test internal controls over these programs. The determination of major programs is fairly complex, but generally, it is programs that expend federal funds more than \$750,000.



What are our responsibilities under the Single Audit Act?

Generally, the township must:

- Maintain internal control over federal programs
- Arrange for an audit
- Timely submit the single audit
- Evaluate and monitor compliance with statutes, regulations, and the terms and conditions of federal awards
- Take prompt action when noncompliance identified
- Prepare the Schedule of Expenditures of Federal Awards

Compliance over federal laws and regulations for any applicable federal program, as well as any additional requirements, are spelled out in the “Compliance Matrix” published by the OMB. The 2019 Compliance Supplement was just issued and is available at [www.whitehouse.gov](http://www.whitehouse.gov). Compliance requirements are organized by program, and are further identified by their Catalog of Federal Domestic Assistance number, which you should have in your grant documents.



Can our independent auditors help us with any of our responsibilities?

Auditors must balance helping their client and maintaining their independence. If your township is a first-year single auditee, it may be beneficial to engage the services of a firm experienced with federal financial assistance resources to help manage your responsibilities, and use another firm to perform the single audit.

The Government Accounting Office (GAO) issues “Governmental Auditing Standards” that are required for communities receiving federal financial assistance. GAO independence standards are much stricter than the “Generally Accepted Auditing Standards” issued by the American Institute of Certified Public Accountants, and auditees and auditors must be mindful of these requirements.



When are the reports due?

Single audit reports must be submitted to the Federal Audit Clearing House within the earlier of 30 days after receipt of the auditor’s reports or nine months after the end of the audit period.

Information provided in *Financial Forum* should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.

# Hands off

## Zoning preemptions impact local land use authority

**W**ireless communications. Right to Farm. Sand and gravel mining. More and more frequently, legislation and court rulings are limiting how townships can regulate these—and myriad other—land use issues in their communities.

Township authority to adopt zoning ordinances arises from the Michigan Zoning Enabling Act (MZEA), Public Act 110 of 2006; MCL 125.3101, *et seq.*, and in accordance with the master plan for that township. Under the MZEA, a municipality may develop zoning districts and regulate land use.

There are instances, however, when the state Legislature and the courts have carved out land uses that are exempt from township zoning or where the township's zoning authority is limited in some way. In these instances, legislation or court decisions preempt local zoning. This article addresses a few of the common areas in which township zoning regulation is fully or partially preempted by statute or case law, as well as issues presented to township governance as a result of zoning preemption.

### **Right to Farm**

The Right to Farm Act (RTFA), Public Act 93 of 1981; MCL 286.471 *et seq.*, preempts local zoning for commercial farms and allows for commercial farms to operate in spite

of ordinances restricting nuisance, noise and odor—as long as the farm is in compliance with the generally accepted agricultural and management practices (GAAMPs). GAAMPs, which are put in place by the Michigan Department of Agriculture and Rural Development, list how farms can comply with certain department requirements related to their operation, such as manure disposal and animal care.

A 2000 RTFA revision limited local control even further. The act added language stating that "... a local unit of government shall not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicts in any manner with this act or generally accepted agricultural and management practices developed under this act." (MCL 286.474(6)) A common issue for municipalities has been whether they must allow small hobby farms in a residential area. In terms of determining what constitutes a commercial farm, that particular term is not defined within the act, or within the GAAMPs, so courts have used dictionary definitions to determine the meaning. (*Charter Twp of Shelby*



*v. Papesb*, 267 Mich App 92; 100 (2005)) No determinate amount of income must be received annually for the farm to be considered commercial; a court will consider if the farmer intends to make a profit, whether they actually do. The outcome of each case is resolved on a case-by-case basis. Accordingly, challenges to a township's rights to apply its zoning to a farming operation are often factually driven.

The RTFA clearly states that local governments may not enact ordinances that conflict either with the act or GAAMPs. This does not, however, mean that a local authority must allow farming in an area or manner that is detrimental to public health or the environment. The act allows for an ordinance that allows for standards that are different from those encoded in the act or GAAMPs to be submitted to the director of the state Department of Agriculture and Rural Development for review when the township feels that health or the environment need to be protected. (MCL 286.474(7))

The RTFA also does not mean that all local regulation concerning farming is invalid; there are only limits on the regulations enumerated in statute and the GAAMPs. Courts,

for example, have ruled that where a road commission denied access to a farm field from a subdivision street where another entry point is available, this denial did not violate the RTFA, as the restriction is not removing access to the field and the ability to farm it. (*Scholma v. Ottawa Co Rd Com'n*, 303 Mich App 12 (2013))

Where a nuisance claim is made, a farm owner may allege farming rights to rebuke the claim, but each case is evaluated on a case-by-case basis. When a Right to Farm claim is made, the farmer must meet the criteria required in both the act and the GAAMPs in order to prevail over the nuisance claim. When these criteria cannot be proved by the farmer, the township may prevail. (*Williamstown Twp v. Hudson*, 311 Mich App 276 (2015))

The person claiming the exemption from township zoning under the RTFA has the burden of proving that they are a farm in commercial operation and in compliance with GAAMPs. Many township zoning administrators suggest that a person asserting a RTFA exemption from township zoning get a voluntary GAAMPs inspection, to prove their GAAMPs compliance.

# cover story

It is also important to understand the limitations of the Farm Market GAAMP. Not all uses commonly associated with farm markets are exempt from township zoning under the auspices of the Farm Market GAAMP. For instance, wedding barns are not exempt from local zoning; townships may regulate wedding barns through zoning reviews as permitted or special land uses. The Farm Market GAAMP includes regulations on percentage of products required to be produced on the farm (or affiliated farms), parking and other regulations. A township should ensure that its zoning regulations do not conflict with Farm Market GAAMP provisions.

The 2019 Site Selection GAAMP was also amended to remove reference to zoning districts. Accordingly, commercial farm operations with livestock can be located in any zoning district, if they can satisfy the setbacks and spacing from non-farm residences. Township zoning officials should review their zoning ordinance in terms of zoning regulations that conflict with the Site Selection (or other) GAAMP.

## Medical and recreational marijuana

Marijuana legalization is another area where the state law preempts some local zoning authority.

Michigan statute governing marijuana use was accomplished in part by voter approval on the ballot. Medical approval was voted in with the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008, MCL 333.26421, *et seq*, while production of medical marijuana by commercial facilities is legislated under the Michigan Marihuana Facilities Licensing Act, Public Act 281 of 2016, MCL 333.27101, *et seq*. Production and use of adult use (recreational) marijuana is regulated by the Michigan Regulation and Taxation of Marihuana Act (Initiated Law of 2018). For both medical marijuana facilities and adult-use (recreational) marijuana establishments, the Marijuana Regulatory Agency (MRA) has issued administrative rules that further clarify municipal zoning authority (*turn to page 30 more an update on the recreational marijuana emergency rules*).

Questions regarding local municipal control in regulating both medical and recreational use and distribution of marijuana have arisen due to court decisions and the wording of statutes legislating marijuana use and production, as well as rules that have been enacted regarding the methods used for growing, selling, processing and transporting marijuana.

Local authority regulation of marijuana, whereby an ordinance prohibiting land uses that were in conflict with federal regulations, was ruled to be in conflict with the MMMA. (*Ter Beek v. City of Wyoming*, 495 Mich 1 (2014))



**Mining for sand and gravel is often a highly contested issue for local municipalities; locals must examine where the process should be allowed and what the impact on surrounding properties may be, whether traffic increases will affect residents and how necessary the public access to the sand or gravel is. The process for determining when and how mining should be allowed locally has evolved over the past few decades.**

Where federal and state authority can coexist, there is not a violation of federal law, even if the federal law classifies marijuana as an illegal controlled substance. The argument for medical marijuana is that it is prescribed for health reasons, and since medical use was approved by the voters for a limited group of people, it is deemed to be for the health and welfare of the people of the state, which the state is allowed to regulate. Any local zoning ordinance that attempts to regulate the medical use of marijuana or that imposes penalties or restrictions on the use that conflicts with the MMMA, such as not allowing plants to be grown in commercial space, has been found to violate state statute. (*Deruiter v. Twp of Byron*, 325 Mich App 275 (2018))

Last year, the voters initiated a law allowing the use, processing and sale of (adult use) recreational marijuana as well. Local municipalities are no longer allowed to stop residents from using recreational marijuana, unless the use occurs in a public place (or within other prescribed restrictions). As the process for sale of recreational marijuana unfolds, it's likely that municipalities will see further case law that expands on what local authorities can—and cannot—regulate.

## Short-term rentals

Township zoning and police power (regulatory) authority currently allows local regulation and control over short-term rental properties. Recently, there have been suggested legislative revisions to the current law that would preempt or otherwise restrict a township's ability to regulate short-term rentals by defining this land use as a residential use and/or by otherwise excluding these properties from special use and commercial use provisions of the zoning ordinance. The legislative changes may alter the Michigan Zoning Enabling Act to establish new requirements for short-term rental properties rented to individuals, including specific carve-outs from local zoning authority.

Other pieces of legislation include short-term rentals in the convention and tourism promotion act. Township zoning officials should stay tuned for updates on this legislation and its interplay with township zoning authority.

## State-licensed residential facilities

State and federal laws must be followed carefully when a local authority attempts to provide zoning limitations in regard to certain adult and child residential care facilities. These facilities are licensed by the state, and state statute provides for their regulation. State statute codifies that these facilities are to be considered a residential use in all residentially designated zoning districts and that they are not subject to special use or conditional use permits. (MCL 125.3206(1))

Townships may still inspect these facilities, but the ordinance for inspection cannot be more restrictive than state law. The number of licensed facilities is restricted under state statute if the state feels granting licensure will lead to an excessive concentrated area of residential facilities within the local municipality. (MCL 722.121(1))

## Sand and gravel mining

Mining for sand and gravel is often a highly contested issue for local municipalities; locals must examine where the process should be allowed and what the impact on surrounding properties may be, whether traffic increases will affect residents and how necessary the public access to the sand or gravel is.

The process for determining when and how mining should be allowed locally has evolved over the past few decades. Initially, courts reviewed cases whereby zoning for mining was denied using a method analyzing the consequences that may result from the mining using the “no very serious consequences” rule. This rule was first established in *Silva v. Ada*, 416 Mich 153 (1982) and was extrapolated on in *American Aggregates Corp v. Highland Twp*, 151 Mich App 37 (1986), which used a sliding scale approach to balance public interest and the financial benefit to the land owner. The land owner challenging the zoning ordinance had to prove there was a public need for the minerals that could be mined and that the act of mining the minerals would provide “no very serious consequences.”

This rule was overruled by *Kyser v. Kasson Twp*, 486 Mich 514 (2010), which stated the rule was not constitutionally required, violated the separation of powers and was no longer valid because of an amendment to statute. Since the *Kasson* decision, the Legislature enacted a statute reiterating the “no very serious consequences” analysis. Under MCL 125.3205—which is part of MZEA—a local ordinance may not prevent mining unless very serious consequences would result from the mining. Anyone challenging the ordinance has the burden of showing that the property contains valuable minerals and that these minerals are needed by the public. This section of the MZEA cites *Silva v. Ada Twp* when including factors necessary in evaluating the very serious consequences test. The factors are:

- the relationship of extraction and associated activity with existing land uses
- the impact on existing land uses in the vicinity
- the impact on property values in the vicinity
- the impact on pedestrian and traffic safety
- the impact on health, safety and welfare
- the overall public interest in the extraction of the minerals on the property

The statute does allow for the local regulation of hours of operation, blasting hours, noise levels, dust control and traffic, so long as the regulation is reasonable in accommodating mining.

Recently, the Legislature passed House Bill 4227 creating the Committee on Michigan's Mining Future within the state Department of Environment, Great Lakes and Energy. The committee is charged with reviewing policies that affect mining and developing recommendations for an industry that is stronger, more sustainable and diverse, and protects the environment. A report will be submitted to the governor and Legislature, and the committee will be dissolved thereafter.

## Wireless communication towers

Federal law and regulations by their nature preempt state law in most cases. A lesser known issue of federal preemption—and one that townships should be aware of regarding wireless facility regulation—is the preemptive effect of



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**Not all uses commonly associated with farm markets are exempt from township zoning under the auspices of the Farm Market GAAMP. For instance, wedding barns are not exempt from local zoning; townships may regulate wedding barns through zoning reviews as permitted or special land uses.**

not only the federal law and regulations but of declaratory rulings. Declaratory rulings, while not law, provide agency interpretations of the federal laws and regulations. Those interpretations are given deference by the courts. (See *Kisor v. Wilkie*, \_\_\_ U.S. \_\_\_, (2019).

The federal preemption on wireless facility regulation is vast. While the federal law purports to preserve local zoning authority, any local regulation may not prohibit or have the effect of prohibiting the provision of personal wireless services. For example, in its Declaratory Ruling and Third Report and Order, FCC 18-133, the Federal Communications Commission (FCC) reasoned that “exorbitant consultant fees or the like” may have the effect of prohibiting the provision of service. Similarly, a requirement that all facilities be underground has been found to be an effective prohibition by the FCC and by the U.S. Court of Appeals for the Ninth Circuit.

The federal laws, regulations and declaratory rulings regarding wireless facilities differ from the state laws by having similar but different definitions, dimensional requirements, time lines and other matters. A prudent township would choose to follow the more restrictive of the state or federal law.

Under Public Act 365 of 2018, enacted late last year, a local government may require a permit for the colocation (installation) of a “small cell wireless facility.” Under PA

365, small cell wireless facilities are classified as a permitted use in the public right-of-way, meaning they don’t require zoning approval, as long as certain conditions are met. The act was introduced as part of a nationwide push to upgrade wireless communications systems to 5G. These 5G systems operate on a higher radio frequency than traditional wireless communications systems, which results in the signals degrading over shorter distances. As a result, wireless service providers require more, albeit smaller, wireless facilities. These small cell wireless facilities are easy to install on utility poles and can be the size of a small backpack.

A companion bill restricts zoning in contravention of PA 365, and further limits zoning approval for the installation of wireless communications equipment in general. (See Public Act 366 of 2018.) Generally speaking, any placement of a wireless facility outside the public right-of-way, or beyond the permitted-use conditions, would require zoning approval to the extent required by your local zoning ordinance.

## **Government-owned facilities and public improvements**

In certain instances, local authority has been overridden by county authority where the building of certain county structures is concerned. In one instance, a charter township brought suit against a county for not following local zoning when the county proposed building a homeless shelter on property located within the township in a district zoned for industrial property. (*Pittsfield Charter Twp v. Washtenaw Co*, 468 Mich 702 (2003)) The county cited the county commissioners act (CCA) as the prevailing authority, stating that county boards of commissioners are not always subject to township zoning when they are erecting county buildings. Under MCL 46.11(b), a county board of commissioners, at a lawfully held meeting, may do one or more of the following: “...[d]etermine the site of, remove, or designate a new site for a county building. The exercise of the authority granted by this subdivision is subject to any requirement of law that the building be located at the county seat.” The court agreed with the county and held that, when building county buildings, the county need not strictly adhere to local zoning ordinances.

There are a few limitations to this general rule. If the construction of a structure on county land is not indispensable to the use of the county building, there is an argument that the county must follow the local zoning ordinance pertaining to the ancillary use. Specifically, gun ranges built for training alongside a county building, built under the power of the CCA, used for classroom training have been found to be in violation of local zoning ordinances where the range is not necessary for the use of the county building. (*Herman v. Co of Berrien*, 481 Mich 352 (2008)) The authority to erect a county building under the CCA does not amount to the ability to construct a site plan on the land used to build the county

building and that any ancillary use of the land is limited to those that are “indispensable to the building’s normal use.”

Proposal A limited property tax increases if the property remains owned by the same individual, and increases could only be determined by additions added to the property. A question arose as to what constituted “additions” within the proposal. The state Supreme Court ruled that public service improvements were not additions under the constitutional amendment and therefore could not be used when calculating any potential increases in property value. (*Toll Northville LTD v. Twp of Northville*, 480 Mich 6 (2008))

### Stay informed

Townships are the form of government designed to be closest to the people and most responsive to their basic needs. Local authority is critical for townships to respond to the needs of their residents and provide the quality of life essential for a strong and vibrant Michigan, yet dozens of bills are introduced each year that erode this authority. Watch MTA publications to stay informed on changes, and help the Association ensure your lawmakers are aware of the impact of preemptions on Michigan communities.

**Catherine Kaufman**, MTA Legal Counsel, and **Amanda Tomich** and **Brien Heckman**, Associate Attorneys, Bauckham, Sparks, Thall, Seeber & Kaufman, PC, Kalamazoo

## Learn more at MTA's August *Hot Topics in Planning & Zoning* workshop

Learn more from MTA Legal Counsel Catherine Kaufman at one of our four *Hot Topics in Planning & Zoning* workshops this month! Kaufman—who brings her experience as both a municipal attorney and a planner—will explore how to “regulate” what you can’t regulate.



The evening session will dig into land use and zoning issues that are preempted from regulation by state or federal law. How can townships deal with the legal issues and still address the concerns of their residents? Gain insights into regulating unusual trouble-spots like tiny houses, composting operations, drones and tree ordinances as well, and learn the fine art of balancing property rights while maintaining the peace and character of your community.

Turn to page 22 or visit [www.michigantownships.org](http://www.michigantownships.org) for more information!



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## Upcoming *On the Road* regional meetings allow you to connect with MTA community

As an MTA member, you belong to the largest community of local government officials in the state. MTA's upcoming *On the Road* regional meetings provide an opportunity for



you to connect with that community, MTA staff, and other municipal experts, to discuss the latest issues affecting townships.

We're traveling across the state in October for this annual meeting series—which features a thought-provoking general session, insightful

legislative update and breakouts on timely township topics. In addition to the education and handout materials, your registration fees include continental breakfast, lunch and a mini expo. Dates and locations are:

- Oct. 1:** Crystal Center at Crystal Mountain, Thompsonville
- Oct. 2:** Holiday Inn, Big Rapids
- Oct. 3:** Delta Hotels Conference Center, Kalamazoo
- Oct. 8:** Riverwalk Inn, Gladwin
- Oct. 9:** Ramada Inn, Alpena
- Oct. 10:** Treetops Resort, Gaylord
- Oct. 16:** Comfort Inn Conference Center, Chelsea
- Oct. 17:** Bavarian Inn Lodge, Frankenmuth
- Oct. 22:** Memorial Union at Michigan Tech, Houghton
- Oct. 23:** Island Resort Conference Center, Harris
- Oct. 24:** Little Bear East Arena, St. Ignace

Registration materials were mailed to each township. Download the agenda, detailed descriptions and a registration form or register online at [www.michigantownships.org](http://www.michigantownships.org).



## August workshop answers age-old question, 'How do you regulate what you can't regulate?'

MTA's popular summer workshop series identifies and explores *Hot Topics in Planning & Zoning*. Join us for an evening this August as we dig into land use and zoning issues that are preempted from regulation by state or federal law. From mining operations to event barns, short-term rental properties and more, we'll demonstrate the art of balancing property rights while maintaining the peace and character of your community. Learn strategies for handling legal issues while addressing concerns of your residents and gain insights into unusual issues like tiny houses, drones and tree ordinances.

Check-in and dinner begin at 4 p.m. and class is held from 5 to 8:30 p.m. at:

- Aug. 14:** Fetzer Center at WMU, Kalamazoo
- Aug. 20:** Bavarian Inn Lodge, Frankenmuth
- Aug. 22:** Little Bear East Arena, St. Ignace
- Aug. 27:** Fox Hill Event Center, Cadillac

Additional information and online registration are available at [www.michigantownships.org](http://www.michigantownships.org).

*This workshop has been designated by Michigan State University for Master Citizen Planner (MCP) program credit.*

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R. Brent Savidant, planning director, City of Troy



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# upcoming MTA workshops

## REGISTRATION INFORMATION

### Relevant to the entire township board ... no matter your level of experience

MTA can help your board improve the way it functions as a team. We can also offer strategies to determine which services are most important to the residents you serve and the risks inherent with those services. Join us at **Boyne Highlands** in **Harbor Springs** on **Sept. 17-18** for one (or both!) of the sessions described below:

#### Managing Your Township Team

(F-104 - 6 credits; includes continental breakfast and lunch)

**Sept. 17 from 9 a.m. to 4 p.m.**

Township board members, deputies, election workers, assessors and firefighters are employees for at least some employment purposes, and so are volunteers. Townships, large and small, need to be prepared to address human resource issues. Preparing and implementing appropriate policies can improve morale around your township hall, help you retain quality people and avoid employment (even volunteer!) related risks. Get the tools you need to better manage your township team.

*Presented by attorney Helen "Lizzie" Mills, Fabey Schultz Burzych & Rhodes, PLC*

#### At Your Service: Meeting Township Needs

(F-101 - 6 credits; includes continental breakfast and lunch)

**Sept. 18 from 9 a.m. to 4 p.m.**

Learn more about the role, authority and legal requirements of the township board in providing services for your residents. Explore funding options as well as the board's responsibility in assuring that the risk is properly managed. Discover techniques for evaluating whether your township's services are effectively serving your community and what considerations should be made to ensure future viability.

*Presented by attorney Steve Mann, Miller Canfield (and former Plymouth Charter Township (Wayne Co.) Trustee), and governance expert Susan Radwan, Owner, Leading Edge Mentoring*



These courses are part of MTA's Township Governance Academy (TGA). They are designed to enhance your leadership skills and motivate you to take on the challenges (and opportunities!) unique to those serving as an elected official. Regardless of your position on the board or amount of experience, TGA will move you to a higher level of performance and make your service more rewarding.

Uncertain whether TGA is for you? Try it! You do NOT have to be enrolled in TGA to attend the courses. Credit will be assigned retroactively if you enroll within six months of attending.

**Cancellations & Substitutions:** Written cancellation requests received at the MTA office by Sept. 4 will receive a full refund. No refunds will be issued thereafter. You may substitute another individual from your township for your registration at any time without incurring a charge; please notify MTA of the change. Substitutions are not allowed for registrations made using scholarship funds.



## TGA Registration Form

Township \_\_\_\_\_ County \_\_\_\_\_

Daytime Telephone \_\_\_\_\_ Email Address \_\_\_\_\_

Name & Title  Township Team  At Your Service  Both classes

Name & Title  Township Team  At Your Service  Both classes

Name & Title  Township Team  At Your Service  Both classes

Name & Title  Township Team  At Your Service  Both classes

	Early-Bird Rate* By Sept. 4	Regular Rate* Sept. 5-12	On-site Rate* After Sept. 12
<b>Team (F-104)</b>	\$125/attendee	\$145/attendee	\$165/attendee
<b>Service (F-101)</b>	\$125/attendee	\$145/attendee	\$165/attendee
<b>BOTH SESSIONS</b>	\$250/attendee	\$290/attendee	\$330/attendee

# of Sessions      Registration Fee      Total

\_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

\*Rates apply to MTA members. Non-members, call for rates.

<b>NOTE: Payment must accompany form in order to be processed.</b>	
<input type="checkbox"/> Check enclosed (payable to MTA)	
<input type="checkbox"/> Charge to: (circle one) MasterCard    VISA	
_____ - _____ - _____	_____ / _____
Card # _____	Expires _____
Print Card Holder's Name _____	Signature _____



Send your completed registration form with payment to MTA, P.O. Box 80078, Lansing, MI 48908-0078; fax: (517) 321-8908. Or register online at [www.michigantownships.org](http://www.michigantownships.org). Questions? Call (517) 321-6467.

# upcoming MTA workshop

## REGISTRATION INFORMATION

### Emerging Issues in Emergency Services

This annual event is designed to offer both an update and a better understanding of the myriad of hot issues facing your fire department and emergency services personnel.

Township board members and fire officials alike should join MTA on **Sept. 25** at the **Bavarian Inn Lodge** in **Frankenmuth** for this full-day event.

You'll get a variety of informative sessions and hear from several experts offering the inside scoop on emerging issues in emergency services.



Registration, along with continental breakfast, begins at 8:30 a.m. Class is held from 9 a.m. to 4 p.m., and includes lunch served at noon.

A full list of speakers and session descriptions appears on the registration brochure mailed to your township last month. It's also available on our website, [www.michigantownships.org](http://www.michigantownships.org).

#### Cancellations & Substitutions

Written cancellation requests received at the MTA office by Sept. 11 will receive a full refund. No refunds will be issued thereafter. You may substitute another individual from your township for your registration at any time without incurring a charge; please notify MTA of the change.

## Emerging Issues Registration Form

**Sept. 25 at the Bavarian Inn Lodge, Frankenmuth**

- EARLY-BIRD rate\*: \$116 Registrations received by Sept. 11.
- REGULAR rate\*: \$136 Registrations received from Sept. 12-19.
- ON-SITE rate\*: \$156 Registrations received after Sept. 20.

*Register early and save!*

*Online registration available at [www.michigantownships.org](http://www.michigantownships.org)*

\_\_\_\_\_ (# registered) x \$ \_\_\_\_\_ (rate\*) = \$ \_\_\_\_\_

AMOUNT ENCLOSED = \$ \_\_\_\_\_

\*Rate applies to MTA members. Non-members, call for rates.

Township \_\_\_\_\_ County \_\_\_\_\_

Daytime Telephone \_\_\_\_\_ Email Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

NOTE: Payment must accompany form in order to be processed.

- Check enclosed (payable to MTA)
- Charge to: (circle one) MasterCard VISA

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ / \_\_\_\_\_

Card # \_\_\_\_\_ Expires \_\_\_\_\_

Print Card Holder's Name \_\_\_\_\_ Signature \_\_\_\_\_



Send your completed registration form with payment to MTA, P.O. Box 80078, Lansing, MI 48908-0078; fax: (517) 321-8908. Or register online at [www.michigantownships.org](http://www.michigantownships.org). Questions? Call (517) 321-6467.



## Voters may take photos of their ballot while in voting booth

*Crookston v. Johnson*, 370 F. Supp. 3d 804 (W.D. Mich. 2018)—On May 8, Secretary of State Jocelyn Benson settled a federal lawsuit that challenged Michigan’s restrictions on ballot photography, sometimes known as “ballot selfies.”

Under the settlement, in which both parties to the suit agreed to dismiss the case, voters will be allowed to take a photograph of their own ballot, but only while they are within the voting booth.

Individuals are still prohibited from:

- Taking “selfies” of themselves, either in the voting booth or anywhere within the area where people are voting.
- Taking any other type of photograph within the area where people are voting.
- Sharing images of a voted ballot within 100 feet from the polling place—the buffer zone where electioneering is prohibited.

The case was filed in 2016 in U.S. District Court for the Western District of Michigan in Grand Rapids. Benson became the defendant in the case upon taking office in January.

## Chalking tires for parking enforcement is a Fourth Amendment search

*Taylor v. City of Saginaw*, 922 F.3d 328 (6th Cir. 2019, April 25, 2019)—The U.S. Sixth Circuit Court of Appeals held that the common municipal practice of using chalk to

mark tires to determine how long vehicles have been parked is a search for Fourth Amendment purposes.

The Court also found that the search in this case was unreasonable, because the city did not justify its claimed automobile or “community caretaker” exceptions to the warrant requirement. The Court cautioned that, “This does not mean, however, that chalking violates the Fourth Amendment. Rather, we hold, based on the pleading stage of this litigation, that two exceptions to the warrant requirement—the ‘community caretaking’ exception and the motor-vehicle exception—do not apply here. Our holding extends no further than this. When the record in this case moves beyond the pleadings stage, the City is, of course, free to argue anew that one or both of those exceptions do apply, or that some other exception to the warrant requirement might apply.”

## Property owner may file § 1983 Fifth Amendment claim in federal court as soon as taking occurs

In *Knick v. Twp. of Scott, Pennsylvania*, 139 S. Ct. 2162, decided June 20, 2019, the U.S. Supreme Court held that because the government violates the Takings Clause of the Fifth Amendment when it takes property without compensation, a property owner may bring a federal 42 USC § 1983 claim at that time, overruling *Williamson County Regional Planning Comm’n v. Hamilton Bank of Johnson City*, 473 U. S. 172, which previously held that property owners must seek just compensation under state law in state court before bringing a federal takings claim under.

Chief Justice Roberts wrote the opinion, joined by Justices Thomas, Alito, Gorsuch and Kavanaugh, with Justices Kagan, Ginsburg, Breyer and Sotomayor dissenting.

When a government “takes” private property, it must compensate the property owner. A “taking” can occur when a government physically seizes or condemns private property, or it can occur as a “regulatory taking” when a government regulation limits the property owner’s property rights to a degree that it is the functional equivalent of a physical taking. In *Knick*, the Scott Township passed an ordinance requiring that all cemeteries be kept open and accessible to the general public during daylight hours. Rose Mary Knick owned 90 acres that included her single-family residence, grazing land for her farm animals, and a small family graveyard. When the township discovered headstones on the property, it cited her for violating the ordinance by not opening the graveyard to the public.

A § 1983 claim is filed in federal court for redress of deprivation of a person’s constitutional or federal right or privilege by a person acting “under color of” state law (including local ordinances as authorized by state law).

In the syllabus of the opinion, the Court stated: “This Court has long recognized that property owners may bring Fifth Amendment claims for compensation as soon as their property has been taken, regardless of any other post-taking remedies that may be available to the property owner. The Court departed from that understanding in *Williamson County* and held that a taking gives rise not to a constitutional right to just compensation, but instead gives a right to a state law procedure that will eventually result in just compensation. Just two years after *Williamson County*, however, the Court returned to its traditional understanding of the Fifth Amendment, holding that the compensation remedy is required by the Constitution in the event of a taking. A property owner acquires a right to compensation immediately upon an uncompensated taking because the taking itself violates the Fifth Amendment. The property owner may, therefore, bring a claim under § 1983 for the deprivation of a constitutional right at that time. ...

“Today, because the federal and nearly all state governments provide just compensation remedies to property owners who have suffered a taking, equitable relief is generally unavailable. As long as an adequate provision for obtaining just compensation exists, there is no basis to enjoin government action effecting a taking.

“The state-litigation requirement of *Williamson County* is overruled. ... As long as post-taking compensation remedies are available, governments need not fear that federal courts will invalidate their regulations as unconstitutional.”

## Long-standing WWI veterans memorial cross did not violate the First Amendment Establishment Clause

In another § 1983 claim, the U.S. Supreme Court reversed and remanded to the U.S. Fourth Circuit this case involving the Bladensburg Cross, which was erected as a memorial to area soldiers who died serving in World War I at the entrance to a larger WWI memorial park in Maryland. (*Am. Legion v. Am. Humanist Ass’n*, 139 S. Ct. 2067, decided June 20, 2019)

The § 1983 claim against Maryland-National Capital Park and Planning Commission alleged that the public ownership and maintenance of the 32-foot tall cross, erected on public land in 1918 at the end of WWI, violated the First Amendment’s Establishment Clause.

In the syllabus of the opinion, the Court stated: “At least four considerations show that retaining established, religiously expressive monuments, symbols, and practices is quite different from erecting or adopting new ones. First, these cases often concern monuments, symbols, or practices that were first established long ago, and thus, identifying their original purpose or purposes may be especially difficult. Second, as time goes by, the purposes associated with an established monument, symbol, or practice often multiply ... . Even if the monument’s original purpose was infused with religion, the passage of time may obscure that sentiment and the monument may be retained for the sake of its historical significance or its place in a common cultural heritage. Third, the message of a monument, symbol, or practice may evolve, as is the case with a city name like Bethlehem, Pennsylvania; Arizona’s motto ‘*Ditat Deus*’ (“God enriches”), adopted in 1864; or Maryland’s flag, which has included two crosses since 1904. Familiarity itself can become a reason for preservation. Fourth, when time’s passage imbues a religiously expressive monument, symbol, or practice with this kind of familiarity and historical significance, removing it may no longer appear neutral, especially to the local community. The passage of time thus gives rise to a strong presumption of constitutionality.”

The Court also stated that, “The cross is a symbol closely linked to World War I. The United States adopted it as part of its military honors, establishing the Distinguished Service Cross and the Navy Cross in 1918 and 1919, respectively. And the fallen soldiers’ final resting places abroad were marked by white crosses or Stars of David, a solemn image that became inextricably linked with and symbolic of the ultimate price paid by 116,000 soldiers. This relationship between the cross and the war may not have been the sole or dominant motivation for the design of the many war memorials that sprang up across the Nation, but that is all but impossible to determine today. ... Memorials took the

place of gravestones for those parents and other relatives who lacked the means to travel to Europe to visit the graves of their war dead and for those soldiers whose bodies were never recovered.

“Applying these principles here, the Bladensburg Cross does not violate the Establishment Clause. The image of the simple wooden cross that originally marked the graves of American soldiers killed in World War I became a symbol of their sacrifice, and the design of the Bladensburg Cross must be understood in light of that background. That the cross originated as a Christian symbol and retains that meaning in many contexts does not change the fact that the symbol took on an added secular meaning when used in World War I memorials. The Cross has also acquired historical importance with the passage of time, reminding the townspeople of the deeds and sacrifices of their predecessors as it stands among memorials to veterans of later wars. It has thus become part of the community. ...

“The fact that the cross is undoubtedly a Christian symbol should not blind one to everything else that the Bladensburg Cross has come to represent: a symbolic resting place for ancestors who never returned home, a place for the community to gather and honor all veterans and their sacrifices for this Nation, and a historical landmark.”

The syllabus also concluded that, in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), the “Court ambitiously attempted to find a grand unified theory of the Establishment Clause, but the Court has since taken a more modest approach that focuses on the particular issue at hand and looks to history for guidance. The cases involving prayer before legislative sessions are illustrative. In *Marsh v. Chambers*, 463 U.S. 783, the Court upheld a State Legislature’s practice of beginning each session with a prayer by an official chaplain, finding it highly persuasive that Congress for over 200 years had opened its sessions with a prayer and that many state legislatures had followed suit. And the Court in *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565 (2014), reasoned that the historical practice of having, since the First Congress, chaplains in Congress showed ‘that the Framers considered legislative prayer a benign acknowledgment of religion’s role in society.’ Where monuments, symbols, and practices with a long-standing history follow in the tradition of the First Congress in respecting and tolerating different views, endeavoring to achieve inclusivity and nondiscrimination, and recognizing the important role religion plays in the lives of many Americans, they are likewise constitutional.”



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# ‘Just pay it forward’

Township firefighter walks across the state to raise money for his peers battling cancer

Ten years ago, **Joe Warne** found himself with no income and no prospects. As the Great Recession hit his Texas community, he was laid off from his marketing job just as he and his wife welcomed another baby. Just as he thought he’d hit rock bottom, he learned his father in Michigan had a heart attack.

Buying a plane ticket was out of the question with his dwindling bank account. Warne worried he wouldn’t get to tell his father goodbye if the worst happened.

But a friend decided he wouldn’t let that happen. Using his airline miles, he bought Warne and his son plane tickets to spend the week in Michigan. When Warne offered to pay him back, his friend refused.

“Just pay it forward,” he said.

Warne never forgot how it felt to have someone show up for him in his hour of need. Now a **Macomb Township** (Macomb Co.) firefighter, he also runs a nonprofit called Neighbors United that provides gift cards to homeless veterans, children with cancer, domestic violence survivors and other local families who could use the help. And in June, Warne showed just how far he would go to help his neighbors.

Dressed in his 35-pound turnout gear and carrying an American flag, Warne trekked at least 140 miles from Macomb Township Station Two to the Kentwood Fire Station in Kent County over the course of four days. For weeks prior to his Forrest Gump-style journey, he collected donations to benefit firefighters with cancer. Even during his walk, friends, strangers and everyone in between handed him checks, wads of cash and their last \$5 bill. Later, he learned singer Bob Seger and Chevy Trucks have offered to match everything he raises. All told, he expects to bring in up to \$30,000—about as much as he raised last year in total.

“It was very emotional,” Warne said of the eye-popping amount. “People finally started to see how hard our organization was willing to work to help people and the lengths we’re willing to go. That was the game-changer for many. It’s very inspirational.”



### Thinking big—to help others

The cause of this year’s fundraiser is especially dear to Warne’s heart. He was drawn to the fire service at just 12 years old, but it wasn’t until he helped put out a grass fire near his home that he realized it could be his career. He hadn’t found a new job since he was laid off, and when he heard the local department was looking for volunteers, he decided it was a sign. He stuck with the career when he and his family moved back to Michigan.

These days, you can’t read the news or open a firefighter magazine without hearing about one of his fellow firefighters battling cancer. Due to the smoke inhalation and chemical exposures firefighters face, cancer is one of their biggest killers.

Warne dreamed of handing firefighters four-figure checks, and helping them out with mortgage or car payments. To do that, he needed to think big. Typically, Neighbors United counts on several small fundraisers throughout the year to raise money. They collect bottles, hold yard sales and take in large appliances to help one family at a time.

“We call ourselves the hardest-working blue collar organization in the state,” Warne said. “We nickel-and-dime ourselves through everything.”

So Warne returned to an idea he’d had long ago, an idea for walking from Michigan to his former station in Texas dressed in his turnout gear. After his wife quickly quashed that idea, he countered with a station across the state.

To make it work, Warne knew he needed a team behind him. He arranged for two volunteers to drive ahead of him in a car stocked with water and food. He booked hotels where he could rest and recover each night. And he asked friends to spread the word so the fundraiser would have a larger reach.

In an unseasonably cool spring, Warne had the misfortune of picking a week where temperatures neared 80 degrees. The first day of his walk, June 5, the weather rotated between rain showers and bright sun. Together, they had the effect of

essentially cooking him in his gear. That night, he lay shaking in his hotel bed, his body drenched in sweat, wracked with chest pains and numbness.

“The first day nearly killed me,” he said. “That’s the truth. I thought I was dying that night. I almost called 911.”

But when he woke the next morning at 5:30 a.m., the pain was gone. Miraculously, he felt refreshed and ready to tackle the next leg of the walk.

Warne refused to be distracted by his blistered, aching feet, or the weight of his gear as he trudged forward. He knew it was a mental game, and he was prepared to win. Each time he wanted to quit, he thought of firefighters struggling with the daily pain of cancer. If they could keep fighting, he thought, he could keep going too.

Warne thought he might see a stranger or two intrigued by what he was doing. Instead, he was blown away by the crowds that approached him. People he’d never met opened their homes to him for bathroom breaks or to wash the sweat off his face. A grandmother raising her three grandchildren handed him her last \$20 bill, money she really couldn’t spare. An Afghanistan veteran shared his story with Warne, even handing him a memento Warne carried through the rest of his walk.

### An outpouring of support

Finally, after four days of walking, Warne saw the Kentwood Fire Station in the distance. Dozens of family members, friends, fellow firefighters and interested strangers erupted in cheers as he walked through the door. His children wrapped him in hugs. Coworkers who had joked that he’d never finish the walk ate their words. All in all, it was an outpouring of support beyond anything he could have imagined.

“You always hear about the doom and gloom in the world, but during that walk, I saw nothing but generosity and beautiful people,” Warne said. “It was amazing to watch.”



## Recreational marijuana emergency rules released

The Marijuana Regulatory Agency (MRA) issued emergency administrative rules on July 3, to implement the Michigan Regulation and Taxation of Marihuana Act (MRTMA). Signed by Gov. Gretchen Whitmer, the emergency rules enable the MRA to fully implement the marijuana proposal that Michigan voters approved in 2018.

“The release of the rules provides local municipalities and prospective licensees with the information they need to decide how they want to participate in this new industry,” said MRA Executive Director Andrew Brisbo, noting that business applications for recreational marijuana facilities will be accepted beginning Nov. 1.

If a township wishes to prohibit or regulate recreational marijuana establishments or retail shops in their community, it must adopt an ordinance. Once the state begins accepting applications, they can locate recreational marijuana establishments in townships that have not opted out. If they have not already done so, townships that wish to opt out should adopt regulatory ordinances by Nov. 1.

Designed to allow prospective licensees to operate under clear requirements, the emergency rules remain in effect for six months, though they may be extended once for not more than six months. The rules are designed to ensure a fair and efficient regulatory structure for Michigan businesses, and access to safety-tested marijuana for Michigan’s citizens and visitors.

### New license types created

In addition to the license types required in MRTMA, the emergency rules create the following additional license types:

- **Marijuana Event Organizer**—Allows the license holder to apply for Temporary Marijuana Event licenses from the MRA.
- **Temporary Marijuana Event**—This license allows a Marijuana Event Organizer to run an event, *which has been approved by the local municipality*, where the on-site sale or consumption of marijuana products, or both, are authorized at a specific location for a limited time. Licensed Retailers and Microbusinesses may participate. The Marijuana Event Organizer is required to hire security and ensure that all rules and requirements for on-site consumption of marijuana products are followed.
- **Designated Consumption Establishment**—Allows the license holder, *with local approval*, to operate a commercial space that is licensed by the MRA and authorized to permit adults 21 years of age and older to consume marijuana and marijuana products on premises. A Designated Consumption Establishment license does not allow for sales or distribution of marijuana or marijuana product, unless the license holder also possesses a Retailer or Microbusiness license.
- **Excess Marijuana Grower**—Allows a licensee who already holds five adult-use Class C Grower licenses to expand their allowable marijuana plant count.

## Equivalent licenses

The Medical Marijuana Facilities Licensing Act (MMFLA) provides the structure for medical marijuana facilities, while the MRTMA provides the structure for adult-use (“recreational”) marijuana establishments. Both recreational and medical marijuana may be sold in the same establishment, with equivalent licenses, defined by the rules as follows:

“Equivalent Licenses with common ownership will be allowed to operate at the same location, without separation, if the operation is not in violation of any local ordinances, regulations or limits. Separate entrances, exits, point of sale areas and operations will not be required.”

Adult-use Retailer and Medical Provisioning Center licensees who are operating equivalent licenses at the same location must physically separate the entire inventories and the items on display for sale so that individuals may clearly identify medical marijuana products from adult-use marijuana products. Products subject to the adult-use excise tax may not be bundled in a single transaction with a product or service that is not subject to the excise tax.

The MRA may authorize Grower, Processor and Retailer equivalent licenses to transfer marijuana product from their medical marijuana inventory to their adult-use inventory. The MRA will publish a specific start date, end date and other requirements for the transfer of marijuana product between equivalent licenses.

## Similarities and differences between adult-use rules and medical rules

The adult-use marijuana emergency rules share a large overlap with the medical marijuana administrative rules, but also contain some significant differences. In the overlap between adult-use and medical, there are similar rules with important distinctions. These distinctions include:

- There are no capitalization requirements for adult-use licenses and fewer financial documents are requested from applicants.
- Adult-use home delivery includes Designated Consumption Establishments and any residence. Medical home delivery is to registered marijuana cardholders only.
- Adult-use license renewal fees are divided into three tiers in which larger volume licensees will pay more on renewal and smaller volume licensees will pay less.
- Growers and Microbusinesses may accept the transfer of marijuana seeds, tissue cultures and clones from another Grower licensed under the adult-use law or the medical marijuana law.
- Class A Growers and Microbusinesses may accept the transfer of marijuana plants one time from (a) registered primary caregiver(s) so long as the caregiver(s) was an applicant for that license.
- Current medical marijuana licensees who apply for adult-use licenses will be expedited through the application process if there are no changes in ownership.
- All adult-use applicants are required to submit a

social equity plan. The social equity plan must detail a strategy to promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and to positively impact those communities.

- Adult-use Safety Compliance Facilities are required to hire a laboratory manager.

## Adult-use licensing two-step application process

The application process for adult-use marijuana establishment licenses will continue to follow the two-step process that the MRA has been using for the processing of medical marijuana facility operator licenses. The two-step process will allow applicants to begin the application process while still seeking a location for the adult-use marijuana establishment, if they choose to do so.

The first step, pre-qualification, allows applicants to determine if they have state approval before they invest in property, buildings or equipment. Some municipalities may require this approval before local support is given.

The second step, license application, will allow applicants to indicate which type of adult-use marijuana establishment license is being sought and must include plans for a marijuana establishment located in a municipality that does not have an ordinance in place, which would preclude the business.

## Other aspects

- Growers and Processors may engage in research and development.
- Growers, Processors, Retailers and Microbusinesses may offer tested internal product samples for their employees to consume off-site to ensure the quality and/or potency of the products.
- Growers and Processors may provide trade samples of marijuana and marijuana products to other Processors or Retailers to help determine whether they want to purchase the product.
- A licensee—who holds two or more Processor licenses or two or more Retailer licenses—with common ownership at different establishments may transfer marijuana product inventory between the Processor or Retailer establishments.
- Microbusinesses may not operate at multiple locations and must operate the corresponding areas of their Microbusiness in compliance with the operation requirements of a Retailer, a Grower and a Processor.
- The MRA is crafting a social equity plan that will promote and encourage participation in the marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition and enforcement, and positively impact those communities.
- A Retailer is not required to retain information from customers other than the following: method and amount of payment, date/time of sale, product quantity, and other product descriptors.

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townships in the spotlight



## Clyde Township

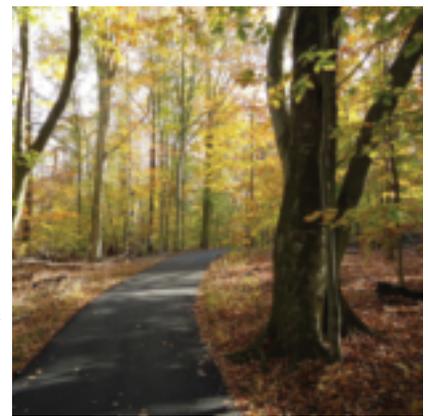
**Clyde Township** (St. Clair Co.) is named after the River Clyde in Scotland. In 1825, Scotsman Robert Smart, with the backing of Detroit interests, built a mill on the Black River. Smart named the area Clyde Mills, after the river near where he had lived as a child. Clyde Township was organized in March 1836 and took its name from the settlement.



The township—which more than 5,000 residents call home—has recently undergone numerous updates and improvements. The township hall was renovated and dedicated in a ceremony attended by township officials, residents and Sen. Dan Lauwers (R-Brockway). The fire department replaced older equipment with two new vehicles, a mini pumper truck and a utility vehicle, funded through department-run raffles and a grant from the Michigan Department of Natural Resources.

The township has more state-owned land than any other municipality in the county, with 4,364 acres. With ample acres of parks, state game areas and miles of waterways, Clyde Township is a destination for many outdoor enthusiasts. The township is a year-round playground for biking through beautiful fall colors, boating in the summer, sledding through the hills, and relaxing to spot eagles and other wildlife, fishing and hunting.

Clyde Township boasts a portion of one of Michigan's most scenic biking and walking paths. The Wadhams to Avoca Trail utilizes more than 12 miles of a historic rail line formerly owned by the CSX Company. The trail offers a variety of opportunities for walkers, rollerbladers, bikers and even horseback riders. The scenic beauty of the trail also makes it great place to bird-watch or see the fall colors. The centerpiece of the trail is the 640-foot long Mill Creek Trestle. Built in the late 1800s, the 60-foot high trestle has been decked and railed to provide safe access for walkers and bicyclists. Four overlook areas have also been installed on the trestle so the trail users can enjoy the beautiful views up and down the Mill Creek Valley.



Clyde Township is also home to one of St. Clair County's newest parks, Camp Woodsong. Woodsong is a passive park with rustic trails that traverse along scenic, steep slopes that travel down to 2,800 feet of Black River shoreline. The park is the ideal place to relax and nature watch.



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