

Michigan Township Focus

JANUARY 2019

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

Asset management: A game-changer



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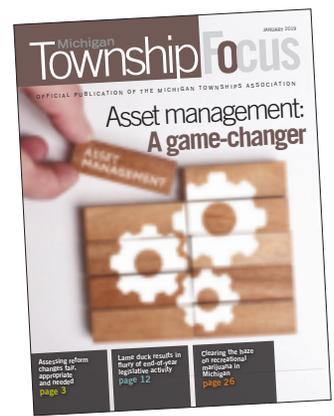
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Asset management: A game-changer

“Asset management” may sound vague and complicated, but it simply means taking inventory of what infrastructure your township has, putting the information into a database, and using the information to predict when repairs or replacements will be needed and the best method for doing so. Experts say the process is a game-changer.

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Clearing the haze on recreational marijuana in Michigan

The new Michigan Regulation and Taxation of Marijuana Act, which allows individuals to use marijuana for recreational purposes, has raised many questions about how it will be implemented and what townships can—and cannot—do. We provide some answers.

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Assessing reform changes fair, appropriate and needed

The assessing reform bills sponsored by Sen. Jim Stamas and Rep. Jim Lower took a seldom-seen odyssey through stakeholder engagement that should be a model for lawmakers and interest groups seeking consensus on a highly contentious issue, resulting in a substitute bill bridging the Michigan Department of Treasury's objective to restructure assessment administration of smaller jurisdictions, and local assessors opposed to a "one size fits all" approach.



The bill sponsors deserve a lot of credit for listening to many concerned, frustrated—and often angry—assessors and elected township officials. While some local officials see assessing as purely a local function that should be free of all but basic state requirements, the Michigan Constitution's taxation uniformity clause compels the state to establish and enforce

statewide standards so assessing is uniform not only within an assessing entity but across all assessing entities.

Delivered both in writing and in person at public meetings called by bill sponsors, local officials acknowledged current assessing problems and also their sincere willingness to embrace changes to fix numerous problems with the current assessing system. Lawmakers could see that assessing problems do not emanate solely from assessing jurisdiction size and that forcing assessing offices to consolidate into assessing districts shared by multiple cities and townships and imposing staffing requirements far exceeding local needs would exponentially raise the cost of assessing for individual entities, especially for rural townships.

Because of the willingness of bill sponsors to incorporate many of the suggestions offered by MTA members, MTA could support a substitute bill that was not only an extraordinary improvement over the original legislation, but the MTA's Assessing and Tax Policy Committee also saw as a big improvement over the status quo and consistent with MTA's legislative platform adopted by the membership.

Minimum assessing standards currently established by State Tax Commission rules will become law in 2021 and going forward will be subject to greater legislative oversight. However, arbitrary land valuation map standards that have riled assessors are gone. Board of review members, with powers to not only fix incorrect assessments but also to

undermine correct assessments, can no longer refuse to be trained. Townships struggling to find qualified board of review members can form joint boards with an adjacent assessing entity.

Which townships will now be required to lose their current assessor and contract with a "designated assessor" chosen by the county and other assessing entities? None, if their assessor is performing the job "substantially compliant" with statutory minimum standards. Because assessors of townships of all sizes have successfully met these standards in the past, there is no reason to believe that any township is fundamentally incapable of documenting that their taxpayers' properties are correctly assessed.

The current remedy for noncompliance with minimum assessing standards is fraught with problems. Seizure of the assessing roll by the State Tax Commission and assessor de-certifications are severe penalties to local governments and assessors, but lack certainty and are imposed after the fact, often taking township boards completely by surprise. The new law will put in place a system to identify local assessing problems proactively, statutory timetables will provide due process for notifications and responses, and the enhanced assessor oversight authority clarifies that township boards are authorized to hold assessors accountable. Consequently, problems can be addressed locally before the need for state intervention and local assessing options are narrowed.

The new law falls short of our objectives to also improve State Tax Commission's technical support to townships, but Sen. Stamas has pledged his willingness to continue to work to address Treasury's assessor training and assistance practices and resources. While the new assessing accountability law will not go into effect until 2021, every township board member should start learning the hallmarks of quality assessing, so boards can assure taxpayers that their assessments are consistent with sound assessing standards. Count on MTA to provide members with the resources to keep assessing local.

A handwritten signature in blue ink that reads "Larry Merrill". The signature is written in a cursive, flowing style.

news¬es

a compendium of noteworthy items

MONEY MATTERS

Township budget reminders

Schedule budget public hearings

For the roughly 900 general law townships with an April 1-March 31 fiscal year, the proposed budget should be prepared, and the budget public hearing scheduled and notice published so the hearing can be conducted and the budget adopted by the township before April 1.

Townships may spend funds on dues, seminars

All local governments may pay dues to associations. The payment of dues has been challenged and upheld in several Michigan Supreme Court cases. MTA Legal Counsel advises that laws are to be liberally construed in favor of townships' authority to expend funds for association dues, registration fees to attend useful public information or educational workshops, and mileage reimbursement for

attendance at authorized seminars and governmental meetings other than township board meetings.

Adopt salary resolutions before annual meeting

Townships that hold an annual meeting are required to pass a salary resolution for each elected office paid by salary at least 30 days prior to the annual meeting date. Townships that hold an annual meeting in March should adopt salary resolutions in January or February, depending on the March meeting date.

If the township board does not pass salary resolutions at least 30 days prior to the annual meeting, the electors have no authority to act on or increase salaries. As a result, the salary of each elected official would remain at the previous year's established level. Electors cannot reduce township board members' salaries during a term of office, unless the duties of the office have been diminished and the township official consents in writing to the reduction. (MCL 41.95)

According to Attorney General Opinion 6422 of 1987, a separate resolution must be adopted for each township office. Each resolution must contain the date in the next fiscal year the salary will be effective. A sample resolution to establish township officers' salaries is available on the members-only section of www.michigantownships.org (search for "Compensation"), or by calling (517) 321-6467.



NEW PUBLISHING THRESHOLD

2019 threshold for publishing minutes set at \$88 million for general law townships

The 2019 taxable value threshold for exempting general law townships from the requirement to publish minutes has increased to \$88 million. The 2018 rate was \$85 million.

The rate is determined by the Michigan Department of Treasury's Office of Revenue and Tax Analysis, which is required to determine the adjusted amount each year. Public Act 465 of 1996 exempts general law townships with a taxable value under a threshold from the requirement to publish township board meeting minutes, or a synopsis of the proceedings, within 21 days after the meeting.

According to PA 465, the limit must be adjusted annually for inflation each Jan. 1 and rounded to the next million.

ATTENTION TREASURERS

Reminder for tax collection office hours

The township treasurer must be in his or her office from 9 a.m. to 5 p.m. to receive tax payments on the last day taxes are due and payable before being returned as delinquent under MCL 211.55. (MCL 211.44(2)(b)) MCL 211.55 refers to the last day of February as the last day that taxes are due and payable before being returned as delinquent to the county treasurer, and provides for the unpaid taxes to be returned as delinquent to the county treasurer the next day.

The last day to pay 2018 property taxes without incurring any interest or penalty is **Thursday, Feb. 14, 2019**. Treasurers **may** choose to hold office hours.

The last day to pay 2018 property taxes before they are returned as delinquent is **Thursday, Feb. 28, 2019** (the last day of February). (MCL 211.45) Treasurers **must** hold office hours.



MORE TIME

Treasury delays implementation for new Uniform Chart of Accounts

The state Department of Treasury has announced a delay in the implementation for the revised Uniform Chart of Accounts, which was released in April 2017.

According to Treasury, "As a result of those who have worked through the process, we have received valuable feedback and suggestions for improvement. Examples include the creation of a table that shows the changes from the 2002 version and the new version, developing ongoing FAQs, suggestions for more training, some account number changes, and a slower rollout.

"While our exposure draft in 2016 did not produce the number of responses we expected, the release of the new chart certainly did."

The department now suggests that those who have not implemented the new chart delay the implementation at this time to give Treasury time to make the process as "smooth and as beneficial as we can."

There is no mandatory implementation date yet. However, it will likely be for fiscal years beginning Jan. 1, 2020, or later. Early implementation is acceptable.

Watch MTA publications for updates as they become available. Contact LAFD_audits@michigan.gov or (517) 373-3227 with questions.

LOCAL UPDATES FROM ACROSS MICHIGAN

Township happenings

State Rep. Mary Whiteford and U.S. Rep. Fred Upton were among those on-hand for the official ribbon-cutting to mark completion of a two-year cleanup effort of the **Otsego Township** (Allegan Co.) Dam.



The cleanup site is a 1.7-mile stretch of a larger 80-mile cleanup in Allegan County on the Allied Paper/Portage Creek/Kalamazoo River Superfund site. The river and state-managed properties along the river are open to the public for river access and outdoor activities, including hunting, fishing, birdwatching, kayaking/canoeing and hiking. DNR officials report that the effort is paying off, as the area experiences the return of fish and wildlife to the riverbanks.

Raisin Charter Township Fire Department (Lenawee Co.) was awarded a grant from the Firehouse Subs Public Safety Foundation to purchase a Lucas 3.0 Chest Compression System to help save lives in the event of a cardiac arrest.

Email YOUR Township Happenings to 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.



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MTA county chapters: Reserve your Annual Conference hospitality suite now!

Is your MTA county chapter interested in hosting a hospitality suite during the MTA Annual Educational Conference & Expo, being held April 1-4, 2019, at DeVos Place in Grand Rapids? Hospitality suites can provide an ideal spot to network with fellow township officials after a long day of classes. A limited number of hospitality suites are available to rent during the Conference.

Don't wait to make your reservations! Unbooked suites will be made available to exhibitors soon, and availability is not guaranteed. Several different types of suites are currently available, each with different amenities and rates. Visit the Conference website and click on "Housing" to learn more or to download the reservation form.



For more details, call Kristin Kratky at (517) 321-6467 or email kristin@michigantownships.org.

NOTE: All suite reservations must be made through MTA. Do not contact the host hotel directly, as the hotel staff will be unable to assist you.

Volunteers needed for 2019 Conference

Would you like to get more involved in the 2019 MTA Annual Educational Conference, while also providing a service to your colleagues? If so,

consider serving as a sergeant-at-arms (SAA) volunteer or ambassador during the Conference, being held April 1-4 in Grand Rapids. All MTA members attending Conference are eligible to volunteer.

SAA duties include distributing handouts and evaluation forms for educational sessions, monitoring session rooms, and collecting evaluation forms. Conference ambassadors may sign up to assist with welcoming and directing attendees to registration upon arrival.

For more information or to volunteer, call Kristin Kratky at (517) 321-6467 or email kristin@michigantownships.org. Please let us know of your interest as soon as possible, or sign up online at www.bit.ly/2019MTAVolunteer.



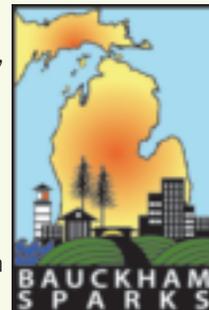
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For as long as the Michigan Townships Association has been around, the law firm of Bauckham Sparks has successfully guided Michigan townships through the complex and often challenging legal issues they face. In fact, back in 1953, the firm's founders helped found MTA—and the Association itself has relied on Bauckham Sparks' expertise ever since.



The legal challenges Michigan townships face have certainly changed over the past six decades, and Bauckham Sparks' attorneys continue to change with the times. The firm's guiding principles, however, remain as steadfast today as they were over 60 years ago. The firm continues to provide careful and thoughtful analysis, detailed problem-solving, and individual attention to its clients' needs with the highest degree of integrity in all circumstances.

That's why so many Michigan townships trust Bauckham Sparks as their general counsel and why so many others rely on the firm's attorneys as special counsel for their most challenging situations. Bauckham Sparks offers clients in-depth experience, expertise and a history of successful service to Michigan townships. Bauckham Sparks is proud to provide that expertise to MTA members and is dedicated to representing the townships and citizens they serve. It's a way of doing business that may seem a bit old-fashioned. Bauckham Sparks, however, prefers to call it "time tested."

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Find out more at www.michigantownshiplaw.com, or call (269) 382-4500 to speak to a firm attorney personally to find out how they can provide a better value for the Michigan township you care so much about.

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Advertorial

Scholarships available for MTA's Township Governance Academy

Whether you're already enrolled in MTA's Township Governance Academy, or it's something you or your fellow board members are considering, scholarships are available to assist with costs for this comprehensive credentialing program.

A limited number of scholarships, up to \$1,000 each, are available to assist elected officials from MTA-member townships that may not be in a financial position to provide the funding necessary for completion of the program. **Applications are due March 1.**



MTA thanks scholarship sponsors **BS&A Software, Burnham & Flower Insurance Group, Foresight Group and ITC Holdings Corp.** for funding the scholarship program.

Download the scholarship application at www.michigan-townships.org (click on "Township Governance Academy" under the "Training" tab on the members-only section, and select the TGA scholarship link), or call (517) 321-6467 to have an application sent to you.

mta events | January

- 2 Registration opens for MTA's 2019 Annual Educational Conference & Expo, being held April 1-4 at DeVos Place in Grand Rapids
- 15 Housing opens in hotels with MTA room blocks for MTA's 2019 Annual Educational Conference
- 23 *Township Board Roles & Relations and Fundamentals of Assessment & Taxation* workshops, Okemos

The Conference registration brochure appears in **THIS** issue of *Township Focus*!



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JANUARY

2 Deadline for counties to file equalization studies for 2019 starting bases with State Tax Commission (STC) for all classifications in all units on STC Form L-4018P. (R 209.41(5))

By 10 Except as otherwise provided in Section 9m (bank or trust), 9n (farm products) or 9o (sugar from sugar beets), assessors and/or supervisors are required to annually send a personal property statement to any taxpayer they believe has personal property in their possession in their township.

Form 632 (L-4175)—Personal Property Statements must be sent or delivered. (MCL 211.19)

24 Local units with a state equalized value of \$15 million or less must distribute taxes collected through Jan. 10, within 10 business days of Jan. 10. All other local units must disburse taxes collected within 10 business days after the 1st and 15th of each month, except during March. (MCL 211.43)

By 31 Annual campaign statements filed. Books closed Dec. 31, 2018.

31 Deadline for employers providing Affordable Care Act information, including IRS Forms 1095-B (Health Coverage) and 1095-C (Employer-provided Health Insurance Offer and Coverage), that must be reported to covered individuals and employees.

FEBRUARY

By 1 *Not later than Feb. 1.* Deadline for a qualified business to submit STC Form 2699 (L-4143) for qualified personal property with the assessor. (MCL 211.8a(2))

Asset forfeiture reports are due to the Michigan State Police summarizing a reporting agency's activities for the previous calendar year regarding the forfeiture of property under the Public Health Code (controlled substances), Identity Theft Protection Act, Revised Judicature Act of 1961 and Public Nuisance Act. A reporting agency that did not engage in any forfeitures during the reporting period must still file a null report. (MCL 28.111)

14 Last day to pay property taxes without the imposition of a late penalty charge equal to 3 percent of the tax in addition to the property tax administration fee, if any. (MCL 211.44(3))

The township may waive the penalty for the homestead property of a senior citizen, paraplegic, quadriplegic, hemiplegic, eligible service person, eligible veteran, eligible widow or widower, or totally and permanently disabled or blind persons, if that person has filed a claim for a homestead property tax credit with the state treasurer before Feb. 15. Also applies to a person whose property is subject to a farmland/development rights agreement or verification that the property is subject to the development right agreement before Feb. 15. If statements are not mailed by Dec. 31, the township may not impose the 3 percent late penalty charge.

15 Townships that collect summer property tax shall defer the collection until this date for property which qualifies. (MCL 211.51(3))

STC reports assessed valuations for state Department of Natural Resources lands to assessors. (MCL 324.2153(2))

On or before the third Monday in February. Deadline for county equalization director to publish in a newspaper the tentative equalization ratios and estimated SEV multipliers for 2019 and provide a copy to each assessor and board of review in the county. All BOR meeting notices must give the tentative ratios and estimated multipliers pertaining to their jurisdiction. (MCL 211.34a(1))

20 Deadline for taxpayer filing of personal property statement with assessor.

Form 5278 must be filed not later than Feb. 20 for each personal property parcel for which the Eligible Manufacturing Personal Property exemption is being claimed.

Deadline to file the affidavit to claim the exemption for Eligible Personal Property (Form 5076). (MCL 211.9o(2))

Deadline for taxpayer to file Form 3711 if a claim of exemption is being made for heavy earth-moving equipment. (MCL 211.19)

Deadline for payments to municipalities from the Local Community Stabilization Authority: Local Community Stabilization Share revenue for county extra-voted millage, township millage, and other millages levied 100 percent in December. (MCL 123.1357(8)(b))

28 Last day for treasurers to collect 2018 property taxes. (MCL 211.78a)

Deadline for municipalities to report inaccurate 2013 and 2016 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2016, to the county equalization director. (MCL 123.1358(5)(b))

Deadline for municipalities to report inaccurate 2013, 2014, 2015 and 2016 commercial personal property and industrial personal property taxable values, as reported on July 10, 2017, under section 151(1) of the State School Aid Act of 1979. (MCL 123.1358(5)(c))

Deadline for municipalities to report inaccurate 2013 and 2017 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2017, to the county equalization director. (MCL 123.1358(5)(d))

Deadline for municipalities to report inaccurate 2018 commercial personal property and industrial personal property taxable values, as reported by the county equalization director in calendar year 2018, to the county equalization director. (MCL 123.1358(5)(e))

The STC shall publish the inflation rate multiplier before March 1. (MCL 211.34d)(15))

For Affordable Care Act forms filed in 2019 reporting coverage provided in calendar year 2018, Forms 1094-B and 1095-B are required to be filed by Feb. 28, or April 2 if filing electronically. See Statements Furnished to Individuals for information on when Form 1095-B must be furnished.

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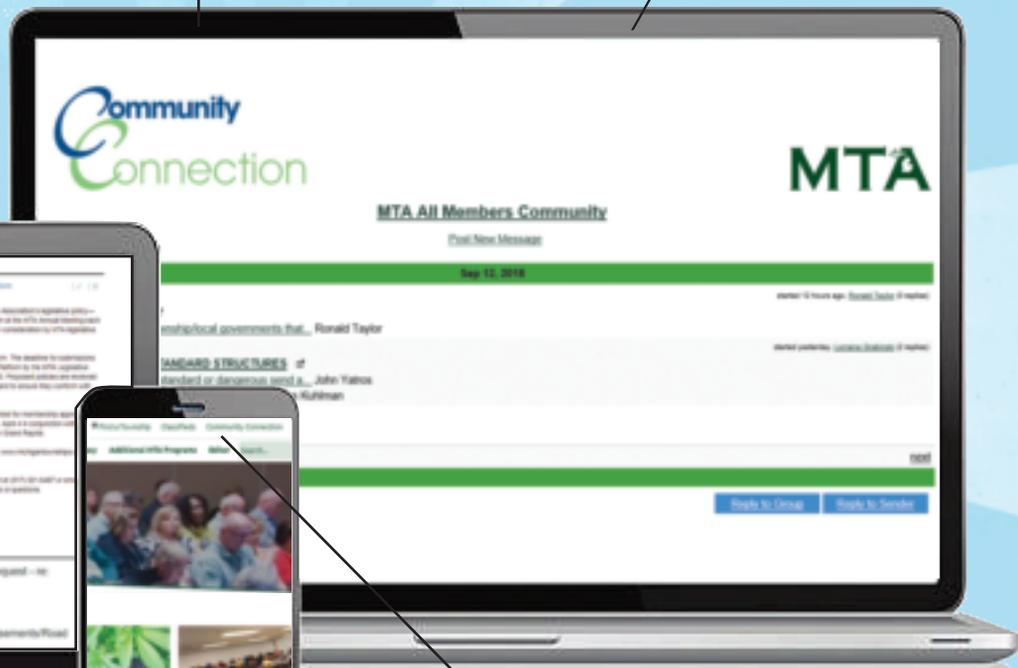
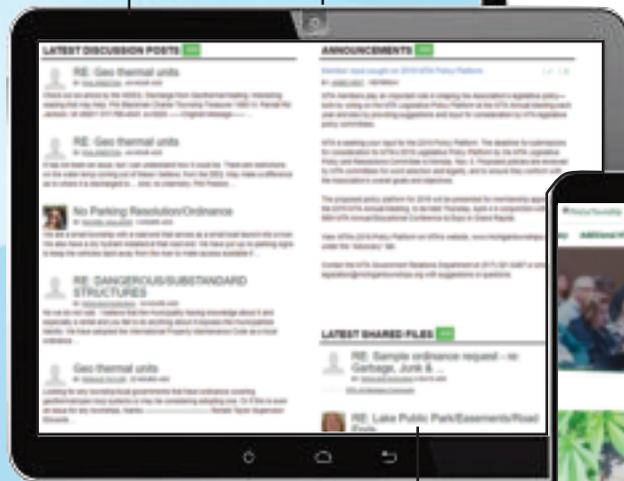
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Under the new recreational marijuana law, can a person use marijuana in a retail store parking lot since it is private property?

No. The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, allows for consumption of marijuana with certain exceptions. One such exception is contained in MCL 333.27954, which states in relevant part that this law does not authorize:

“(e) consuming marihuana in a public place or smoking marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age.”

It should first be noted that consuming marijuana includes, but is not limited to, smoking. With regard to what constitutes a public place, there is currently no definition in the law. Fortunately, very similar language is used in the Michigan Medical Marihuana Act from 2008 (MMMA), which bars smoking of medical marijuana “in any public place.”

In 2011, the Michigan attorney general in Opinion 7261 found that the term public place, as used in the MMMA, refers to any place open to the public. In particular, the attorney general found that qualified medical marijuana patients were prohibited “from smoking marihuana in the public areas of food service establishments, hotels, motels, apartment buildings, and any other place open to the public.” In coming to this conclusion, the attorney general used a dictionary definition from *Black’s Law Dictionary* (6th ed.), p. 1230 that defines “public place,” in part, as “[a] place to which the general public has a right to resort; not necessarily a place devoted solely to the uses of the public, but a place which is in point of fact public rather than private, a place visited by many persons”

Subsequently, in the published 2016 case of *People v. Carlton*, 313 Mich App 339, the Michigan Court of Appeals addressed the public place exception contained in the MMMA. In this case, the Court of Appeals ruled that the prohibition from smoking marijuana in any public place “applies to persons who smoke medical marijuana in a parking lot that is open to use by the general public, even when smoking inside a privately owned vehicle, and even if the person’s smoking is not directly detectable by the members of the general public who might be using the lot.”

In coming to this conclusion, the Court of Appeals indicated that a “public place” is generally understood to be any place that is open to or may be used by the members of the community, or that is otherwise not restricted to the private use of a defined group of persons. See, e.g., *The Oxford English Dictionary* (2nd ed., 1991) (defining the adjective “public” to mean “open to, may be used by, or may or must be shared by, all members of the community; not restricted to the private use of any person or persons; generally accessible”). Further, the Court of Appeals reasoned that: “[a]nd, as with the bathroom stall, whether the members of the general public are able to see the person smoking medical marijuana does not alter the public character of the place.”

It is our opinion that the above interpretation of public place under the MMMA would be equally applicable to the new recreational marijuana exception for consuming marijuana in a public place.

Does our township need an ordinance to prohibit consumption of recreational marijuana in our park?

No. As indicated previously, consumption of recreational marijuana in a public place is not authorized by the Michigan Regulation and Taxation of Marihuana Act. The present state law prohibiting use of marijuana would continue to be applicable in the township park. A township could still decide to adopt an ordinance to prohibit consumption of recreational marijuana in a public place, but would then be responsible for enforcement and prosecution of such offenses. Also, any such ordinance must be within the limitations of state law.





Our seven-member township board had two members absent and just voted three to two to approve an ordinance to completely prohibit recreational marijuana establishments from within the township. Was this a valid action?

No. Township ordinances must be approved by a majority of the entire board. For a seven-member board, it requires approval by four board members to pass, even if two members are absent. For a five-member township board, an ordinance requires approval by three members.



Can our general law township board adopt our recreational marijuana establishments prohibition ordinance (non-zoning) to be effective immediately?

Yes, if the ordinance does not have a penalty provision for violations. If the ordinance does have a penalty provision, then it can first be effective 30 days after publication of the

ordinance after adoption by the township board. A charter township, on the other hand, can adopt a general ordinance and have it effective immediately upon adoption even if it contains a penalty provision.

Also note that if the provisions regarding recreational marijuana will also be in a zoning ordinance amendment, there are different rules for determining the effective date. For both general law townships and charter townships, a zoning ordinance is first effective upon the expiration of seven days after publication of the ordinance or such later date as specified by the township. If a notice of intent to file a zoning referendum petition is filed within seven days after publication, then the ordinance is effective 30 days after adoption, if no petition is filed in that time or when the clerk later determines the petition to be inadequate. If a timely referendum petition is filed, then the zoning ordinance becomes effective upon approval by majority vote of the electors in the zoning jurisdiction.

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.

Turn to page 26 for more information on recreational marijuana in Michigan.



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Lame duck results in flurry of end-of-year legislative activity

As of *Township Focus* press time, the following legislation had passed and either been signed into law or presented to the governor for signature. Several other bills were pending before the Legislature that ultimately were passed. Additional details will be included in the February “Inside Lansing” column.

Improved assessing proposal goes to governor

The Legislature approved a vastly improved version of a proposal to reform Michigan’s assessing system in the final week of the 99th Legislative session. The revised bill, House Bill 6049, sponsored by Rep. James Lower (R-Cedar Lake), was the result of a workgroup convened by Lower and Sen. Jim Stamas (R-Midland Chtr. Twp.) including MTA and other associations, as well as input from hundreds of township officials.

The final bill removed the most objectionable provisions contained in the original bill—including the requirement that townships employ a level 3 or 4 assessor, a prohibition on elected officials serving as assessors and a requirement that assessors be employed full time, among other language. The new law still requires assessing entities to meet quality standards, but beginning Dec. 31, 2021, if compliance is not met, the local unit would submit a corrective action plan. Once approved by the State Tax Commission (STC), the local unit would have to meet a specific time frame, and an initial STC review would take place during the second calendar year of noncompliance to ensure the plan is being implemented.

Beginning Dec. 31, 2020, every county will choose a designated assessor by a majority of assessing entities in the county and the county board of commissioners. The designated assessor would contract with a local assessing entity if they fail to comply with their corrective action plan.

Additionally, the STC is now required to develop guidelines, model policies and standards for assessing entities to utilize, and requires biennial training for board of review members with annual updates, which could be achieved through online training.

MTA again thanks all members for their engagement on this issue.

Permits required for small cell facilities

Small cell wireless facilities must get a permit from your township board before they can be placed within your township’s jurisdiction under a new law.

Public Act 365 of 2018, sponsored by former Sen. Joe Hune (R-Hamburg Twp.), was signed by former Gov. Rick Snyder and takes effect March 13. The bill was introduced at the request of mobile wireless companies to upgrade their systems to 5G. These systems largely depend on what’s known as small cell wireless facilities—low-powered antennas and nodes typically installed on street lights and power and traffic light poles.

Once it takes effect, PA 365 will require small cell wireless facilities to apply for a permit with the local government but would be classified as a permitted use in the public right-of-way, meaning they don’t require zoning approval. However, any placement outside the public right-of-way would require zoning approval. While the final bill was not what MTA could support, we were able to obtain amendments protecting public infrastructure, requiring communication to all authorities when a right-of-way has multiple owners and requiring facilities to be labeled with contact information so that local units know who to call in an emergency. Because of these policy protections, we took a neutral position to ensure these and other provisions were retained in the final version.

A companion bill, now PA 366 of 2018, sponsored by Sen. Mike Nofs (R-Battle Creek), subjects existing zoning ordinances to the language of PA 365.

Bills impact sick leave, minimum wage

Two bills amending Michigan’s paid sick leave requirements and minimum wage law were signed into law in December.

Senate Bill 1175, sponsored by Sen. Mike Shirkey (R-Clark Lake), is now Public Act 369 of 2018, and SB 1171, sponsored by former Sen. Dave Hildenbrand (R-Lowell Chtr. Twp.), is Public Act 368 of 2018. In the

fall, the Legislature acted on two citizens' initiatives to raise the minimum wage and increase paid sick time. SBs 1175 and 1171 were introduced to amend those proposals.

Under PA 369, workers will receive one hour of paid sick time for every 35 hours worked, for a maximum of 40 hours of paid sick time each year—down from the 72 hours included in the original ballot proposal. The change does not impact the effective date of March 2019. The new act does not apply to townships with less than 50 employees. In addition, it does not apply to employees who are exempt from the Fair Labor Standards Act, are temporary employees who work less than 25 weeks in a calendar year or employees who work less than 25 hours per week on average. Employees also must have worked 1,250 hours during the previous 12 months to qualify.

PA 368 increases Michigan's minimum wage to \$12.05 per hour by 2030, rather than 2022 as in the original proposal. MTA did not take a position on these two bills but monitored due to the impact on townships.

Bill helps some townships tackle soil issues

Certain townships will soon have a new option for fighting soil erosion and sedimentation.

Senate Bill 965, sponsored by former Sen. Joe Hune (R-Hamburg Twp.), received final passage with MTA's support. Once the bill takes effect (90 days after enactment), it will allow general law townships located in a county of at least 200,000 people and charter townships to provide for joint soil erosion administration by two or more municipalities. If the municipalities are located in different counties, the state Department of Environmental Quality would have to approve their agreement in writing.

Background checks could be required if employee accesses IRS databases

Township employees with access to residents' Internal Revenue Service (IRS) information will soon be required to undergo a fingerprint-based criminal history check.

This new requirement under House Bill 5254, sponsored by Rep. Dr. Hank Vaupel (R-Handy Twp.), takes effect 90 days after it's signed into law. Once enacted, it brings both the state and local units into compliance with IRS requirements. The bill applies to townships that access IRS databases to verify incomes for poverty exemptions and other information. Townships will have to develop a written policy ensuring the appropriate employees receive these background checks.

Military experience to be factored into veterans' salaries

A veteran's military experience will be required to be treated as relevant professional experience when they're hired by townships under a bill awaiting enactment.

House Bill 4858, sponsored by Rep. Thomas Albert (R-Vergennes Twp.), received final passage in the "lame duck" session. Once it takes effect (90 days after the governor signs), it will require the state and local units of government

to factor in military experience when determining the salary of veterans they hire. This change could potentially result in higher staff costs.

Bills update business and shopping area law

An update to a 50-year-old law governing certain shopping and business areas could result in more money for landscaping and streetscape improvements in those districts.

House Bills 5325, sponsored by former Rep. Chris Afendoulis (R-Grand Rapids Chtr. Twp.), and 5270, sponsored by former Rep. Rob VerHeulen (R-Walker), received final passage. Currently, local units can create principal shopping districts, business improvement districts and business improvement zones to promote economic development. Within these districts and zones, a local unit can impose an assessment to pay for projects that benefit the zone or district. Residential property is excluded from assessment under the law; however, more recent developments include mixed-use districts that combine apartments and condos with shops, restaurants and office spaces.

HBs 5325 and 5270 include residential property in the definition of assessable property, potentially generating more money for such projects.

Local licensing ability limited under bills

A package of bills placing new limits on local licensing requirements for certain occupations received final passage last month.

The primary bill, House Bill 5955, sponsored by Rep. James Lower (R-Cedar Lake), prohibits local units from imposing new licensing requirements on specific occupations, such as plumbers.

They also cannot impose local licensing requirements that exceed state requirements, and they cannot enforce local licensing requirements on specific occupations that already fall under state licensing. An amendment was added by the Senate to end local occupational licensing making it retroactive to Jan. 1, 2018. Various other statutes were amended to reflect these changes under HBs 5956-5965.

MTA did not take a position on these bills but monitored them for their impact to townships.



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Rep. Lee Chatfield (R-Levering)

Lee Chatfield doesn't want to be remembered only for his age.

At 30, the Levering Republican is Michigan's youngest speaker of the House in more than a century. While he knows it's a noteworthy accomplishment to reach this height at such a young age, he's ready to prove that there's even more to his story.

As the new legislative session begins, Chatfield is eager to work with the new Democratic administration as well as members of his caucus to fix Michigan's crumbling roads, cut auto insurance costs and make life better for Michiganders.

"I am going to put politics aside for the next two years and work hard every day to fight for the people of this state, using this new position to improve their lives and strengthen their communities," Chatfield said. "We can all compromise on issues without compromising our principles, and I believe that will be the hallmark of the next two years as we tackle Michigan's biggest challenges together."

Chatfield quickly rose to prominence when he came to Lansing four years ago. While the former high school teacher and coach didn't have political experience, he hit the ground running, chairing the House Local Government Committee in his first term. By his second term, he was named House speaker pro tem and chaired two committees. Meanwhile, the father of five shuttled back and forth from his northern Michigan home he shares with his wife, Stephanie, as frequently as possible.

Chatfield has spent enough time on the roads to know that their deteriorating state is one of the biggest issues facing Michiganders today. He wants the Legislature to find a more sustainable, stronger revenue source that provides predictable funding to both local units and the state, allowing them to plan for long-term road construction projects.

"Michigan's crumbling roads and bridges sap local road funding, hurt our local economies and prevent neighborhoods from attracting new residents," Chatfield said. "Properly funding our roads and bridges would free up critical resources and give local governments the ability to attract and grow both small businesses and new families."

Township officials are valuable partners as state representatives take up bills that impact local governments. Many, like Chatfield, don't have a background in local government and need on-the-ground expertise from their officials back home. They rely on officials' important insights to alert them to unintended consequences and other ways bills will affect their township.



As the new legislative session begins, Speaker of the House Rep. Lee Chatfield (R-Levering) is eager to work with the new Democratic administration as well as members of his caucus to fix Michigan's crumbling roads, cut auto insurance costs and make life better for Michiganders.

While Chatfield leads a Republican majority, he wants to achieve his goals with a bipartisan effort. He points to laws he's helped to pass in the past, such as to end driver responsibility fees and the expansion of the Freedom of Information Act to include the governor's office and the Legislature, both of which were supported on either side of the aisle. As our country becomes more polarized, he wants Michigan to be the exception.

"Michigan's state government cannot act like Washington, D.C.," Chatfield said. "We have to do better. We have to be better. The people of Michigan deserve leaders who can put partisan differences aside and work closely together on solutions to our biggest concerns."

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Rep. Christine Greig (D-Farmington Hills)

Christine Greig had seen too many underfunded classrooms and teachers without support to sit back and do nothing. After watching her three sons attend public schools and residing over Parent Teacher Association (PTA) meetings, she decided to run for state representative and stop Michigan from leaving its students behind.

But when the Farmington Hills Democrat arrived in Lansing, she realized the problem of chronic underfunding was much more widespread than she'd feared. She saw townships and cities struggling to pay for police and fire services, roads that resembled the surface of the moon, and frequent water main breaks. In every area, the common theme was a lack of money.

At the start of her second term, and as the new state House minority leader, she's ready to roll up her sleeves and make Michigan a better place to live.

"If we truly want to build stronger schools and communities, we have to have a holistic approach to fixing our funding problems that considers all options," Greig said. "I'm ready to work with this next Legislature and our new governor to get the job done for Michigan families."

Greig comes to the Legislature with a hefty business background. Back in Farmington Hills, where she and her husband, Bob, have lived for 26 years, Greig worked for Andersen Consulting (now Accenture) as a technology and change management consultant, as well as for Kmart Corp. before co-owning Fulcrum Computer Services. Education is her passion, and this showed as she served on the Michigan PTA and Farmington Hills 20/20 Vision Committee. She was also the founder and executive director of the Farmington/Farmington Hills Education Foundation.

Becoming a state representative was a new challenge, but Greig was well-prepared.

"I am the sixth out of 12 children in my family," she said. "Surviving the Legislature is nothing after surviving that!"

As a new legislative session begins, Greig is focused on what she calls "people-centered politics" and building opportunities for all people. She believes Michigan must make health care more affordable, fix the roads, strengthen public schools and clean up its water. Lawmakers must think beyond stopgap proposals to fix our state's crumbling infrastructure, not only by re-thinking funding but also how infrastructure is built and maintained. Township officials must partner with the state in planning and implementing new infrastructure projects to ensure that those projects meet the community's needs, she said.

At the same time, the Legislature must also stop the practice of continually cutting revenue sharing, Greig said. These cuts not only set back road and infrastructure repairs,



As she begins her second term in the state House, Rep. Christine Greig (D-Farmington Hills)—the new House minority leader—is focused on what she calls "people-centered politics" and building opportunities for all people.

but they also put public safety at risk as more communities are forced to cut back on police and fire services.

"This is unacceptable," Greig said. "Our Legislature must change its focus from tax handouts to wealthy corporations to investing in our communities—because when our communities succeed, our state succeeds."

Greig sees township officials as valuable partners to the Legislature. Their input is crucial for lawmakers as they consider bills that impact their communities, she said. Township officials need a seat at the table as the Legislature writes the state budget and makes long-term decisions about community policy and programs.

True change will take a bipartisan effort—an area where Greig has expertise. She looks proudly at her experience on the bipartisan team that introduced and passed school discipline laws to ensure all students were treated fairly. Lawmakers on both sides of the aisle put aside their differences and worked together to create a compromise that served Michigan's students.

"It showed that Republicans, Democrats and stakeholders can come together to implement solutions that make our state stronger," Greig said.

Before she leaves the Legislature, Greig hopes to restore people's trust in the state. She wants to reconnect Michiganders to their government and increase transparency through communication and public engagement.

"Our government is supposed to be 'by the people and for the people,' but we haven't always made that the top priority when we develop and pass legislation," she said. "At the end of the day, we all want our families to be happy, healthy and financially secure. If we understand that we all have a part in making that happen, you'll start to see people-centered policies that strengthen communities, improve our quality of life and position Michigan for a strong future."

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MTA's 2019 Capitol Conference February 27 | Lansing

Join MTA and fellow township officials for this important event where you will learn about legislative issues impacting townships, and have the opportunity to meet with state decision-makers and legislators. Look for registration details in upcoming issues of *Township Focus* and MTA newsletters, and on www.michigantownships.org.



What are W-4 forms and how often should employees complete them?

Form W-4 is a federal tax form (Michigan also has a W-4 called MI W-4) that provides information to allow employers to calculate federal withholding from the employee's pay. These forms are NOT filed with the IRS, rather they should be retained on file by the township. You should consider offering employees annual opportunities to calculate the appropriate number of withholding allowances. The new tax law, signed by President Trump in December 2017, may have significant impact on the employee's personal tax situation, and all employees may wish to review their withholding.

The form is available online at <https://www.irs.gov>, and contains detailed worksheets to help employees complete. The IRS also has an online tool that automates some of the calculations.

Our suggestion is to provide the form and links to the tools to employees, but refrain from providing specific advice on completion.

In addition to the federal Form W-4, new employees should also complete the following forms:

- **Michigan W-4.** Note that employees may have different withholding allowances for Michigan (flat tax) and federal (graduated income tax) purposes.
- **Form I-9.** This form is used for verifying the identity and employment authorization of individuals hired for employment in the United States, and should be completed PRIOR to hiring employees. All U.S. employers (including townships) must ensure proper completion of Form I-9 for each individual they hire. This includes citizens and noncitizens. Form I-9 can be found at <https://www.uscis.gov/i-9>
- **New Hire Reporting Form.** This form assists in locating recipients of public assistance and unemployment benefits who fail to report earnings and parents who owe child support. This can be filed online at <http://mi-newhire.com>. A paper or electronic form should be filed within 20 days of hiring.



What are some helpful tips for preparing the township's annual W-2 Forms this year?

Here are some practical steps to make sure that the information reported to the IRS/Social Security Administration and your employees is accurate:

The W-3 form is the total of all the W-2s issued to employees. This information should agree with the amounts reported quarterly to the IRS on Form 941. Prior to issuing

the W-2/W-3, townships should verify that these totals match by adding the information reported on quarterly 941 tax return forms, and compare them to the W-2/W-3 totals.

Here is a simple worksheet to help in the process:

941 REPORT						
		Line 5a		Line 5c:		
		FEDERAL INCOME TAX	SOC. SEC.	S.S. TAX	Medicare	MED. Tax
WAGES		WAGES	12.4%	Wages	2.9%	
LINE 2		column 1	column 2	column 1	column 2	
QTR 1						
QTR 2						
QTR 3						
QTR 4						
TOTAL	This total should agree to Box 1 on W-3	This total should agree to box 2 on W-3	This total should agree to box 3 on W-3	This total should agree to box 4 on W-3 x 2	This total should agree to box 5 on W-3	This total should agree to box 6 on W-3 x 2



Do our election workers receive W-2s or 1099 forms?

Election workers do not receive 1099s. They are employees of the township, and 1099 forms are issued to independent contractors. While election workers are employees, they are a very special class of employee under federal tax law:

- Payments to election workers are generally exempt from federal and state income tax withholdings (IRC Section 3401). The amounts you pay election workers for services are taxable to them; they are merely exempt from income tax withholding for the amounts under the annual threshold below.
- Election workers making less than \$1,800 per year in 2018 are exempt from Social Security and Medicare taxes, even if the employment is covered by a "218 Agreement." This was changed by "Modification 975" to the state's master agreement with the Social Security Administration, and was effective Jan. 1, 2004.

If the above "exemptions" apply, (no federal income, Social Security or Medicare taxes were withheld), federal tax law does not require employers paying less than \$600 to these election workers to issue W-2s.

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.

Asset management: A game-changer

After weeks of orange traffic cones and closed lanes, the busy road was finally open to Upper Peninsula drivers once again.

Project leaders were so focused on overhauling the pothole-ridden road, they never considered that the rumbling bulldozers and pounding excavators might be too heavy for the old, cast iron water main buried below, recalls **John Kangas**, now **Chocolay Charter Township** (Marquette Co.) manager, of his former community. That winter, road crews were forced to dig into the smooth new blacktop not once, but twice to fix burst water mains.

Many communities have a story of a new road torn apart months later to dig up a gas line or water main, or an expensive repair that barely lasted a year. It's a common tale that typically spawns from a lack of coordination and planning—the result of utilities in both the public and private world operating in silos.

“We all get wrapped up into our own little world, and when you get a big project on your mind, you tend to lose track of the fact that you're not the only one there,” Kangas said. “Even sometimes when the other person there is the other part of your job responsibility, if it wasn't properly planned, you might not have the money to pay for the other aspect.”

Individual townships and municipalities usually have a handle on their own infrastructure. The problem is, that information often exists in a vacuum. Many communities rely on a longtime public works employee's firsthand knowledge instead of a dynamic infrastructure map. If information is written down, it might be simply handwritten notes. Not only is this information inaccessible to anyone outside of the community, it also doesn't tell the whole story of what's really needed to improve infrastructure.

But recently, state officials have come to believe harnessing this elusive information in a process called “asset management” could be the key to transforming Michigan's entire infrastructure system—while also getting more bang for our buck. They want communities—and the state as a whole—to stop focusing their energies on fixing whatever happens to be in the worst shape and instead prioritize preventive maintenance. They envision a future where local officials and municipal employees, county road commissions and state agencies predict infrastructure failures and plan repairs and replacements before emergencies have a chance to occur.



Deceptively simple

This approach to infrastructure is inherently simple. While the term “asset management” sounds vague and complicated, it just means taking inventory of what you have, putting the information into a database and using the information to predict when infrastructure will need to be repaired or replaced and the best method for doing so. But put together, experts say the process is a game-changer.

As Michigan works to implement a statewide asset management system encompassing all of the state’s infrastructure, some townships and communities are already discovering its benefits. More local units are tracking their roads, pipes and sanitary sewers, and using the data to budget for projects years down the road. They’re prioritizing projects not by which road or water main is in the worst shape, but which will stretch their dollar the furthest and serve the most critical areas. This strategy is also helping them to avoid the sticker shock of sudden infrastructure failure.

Asset management applies to all communities, not just the ones that own and operate public water supplies or manage

road projects. Your township—and its residents—is impacted by infrastructure, regardless of who owns it. When projects are planned, your township should be part of the conversation to ensure your residents’ needs are represented. Whether it’s the road agency or private utility, township officials can do their part to ensure its infrastructure is included in the data-collection process and encourage collaboration to minimize disruptions and impacts to local residents.

Transportation paved the way

Asset management is not a new concept—the term itself has been used for decades. Over the past two years, however, state officials have preached the gospel of its money- and time-saving power—and for good reason. The practice has completely transformed Michigan’s approach to road construction and funding.

In 2002, the Transportation Asset Management Council (TAMC) was created in an attempt to understand why Michigan’s roads were crumbling. No one had any data to provide insights into why Upper Peninsula roads fared better



Over the past two years, state officials have preached the gospel of the money- and time-saving power of asset management—and for good reason. The practice has completely transformed Michigan’s approach to road construction and funding.

than roads in Southeast Michigan, or why a crack seal repair vastly improved one road while it barely made a dent in another. No one had ever counted how many miles of road crisscrossed the state, tracked how long they lasted or rated the quality of their pavement.

So TAMC went to work. The council acted essentially as a data broker as county road agencies, municipalities and the Michigan Department of Transportation (MDOT) reported on everything from their total miles of road and their condition to the fixes they used and their planned projects. The information they collected surprised them. Some roads continued to fail no matter how much money was thrown at them. Recent data analysis shows a correlation between underlying regional soil type and pavement conditions. Others in Michigan’s northernmost corners remained in good condition for years where temperatures held steady below freezing, rather than following the dreaded freeze-thaw cycle so damaging to asphalt.

Today, TAMC has 10 years of data under its belt, said TAMC member **Jennifer Tubbs**, who’s also the **Watertown Charter Township** (Clinton Co.) manager. Every mile of road is ranked as good, fair or poor according to a Pavement Surface Evaluation and Rating (PASER) scale. The data itself isn’t a magic bullet, but it’s available to help local units plan for road projects as well as to educate state officials about the condition of Michigan’s roads and the investment necessary to improve them.

“It’s about analyzing data, how a mix of fixes are working and the different methods of funding improvements in our roads,” Tubbs said. “We’re able to take the data and analyze it. We can clearly see now what’s happening to our roads, and now we can start to figure out why.”

Expanding the concept

Former Gov. Rick Snyder brought asset management back into the spotlight in his 2016 State of the State Address, where he announced the creation of a new 21st Century Infrastructure Commission. Representatives from all facets of infrastructure—transportation, sewer, water, electric, gas and broadband—as well as state and local government officials served among other commission members to answer Snyder’s ambitious charge for a 30- to 50-year vision for Michigan’s infrastructure. Nearly one year later, the commission submitted a comprehensive report that included 110 recommendations and an estimated investment need of \$4 billion.

The report concluded that statewide, county road commissions, municipalities and the state Department of Transportation were already effectively using asset management. When it came to water infrastructure, however, our state was woefully behind—both in the existing system and in management. No statewide system exists for evaluating pipes, water mains and sewers, said Angela Ayers, former director of public policy under the Snyder administration. In fact, checking the condition of underwater infrastructure is so cumbersome and expensive that this necessary task is often neglected. Many communities still rely on the trusty paper map on the wall marked with push pins, or simply the decades of knowledge of a long-time employee.

First in the nation

Nationwide, no other state is taking on an asset management project of this scale. When Ayers sought out examples, she was forced to look overseas, visiting London, England, as well as Australia, to see firsthand how an integrated approach to infrastructure is used in real life. Leaders in both places take a long view of their national infrastructure, planning as far ahead as 30 years.

Tackling this problem back home in Michigan would take a colossal joint effort. As a first step, Snyder issued an executive order creating a pilot project for the southeast and west Michigan regions to examine existing data and gather more information from communities and private utilities. Then, that information was compiled into a common database within a year.

“It was incredibly ambitious,” Ayers said. “It doesn’t sound very exciting or sexy. But when you think about it, we have over 3,000 entities in Michigan that own and operate infrastructure. The challenge is to try to figure out how do you get all these people together, to see what they have and what condition it’s in, and then try to make decisions based on that data.”

If the effort was going to continue beyond the initial pilot program, an ongoing entity would need to take the lead, the 21st Century Infrastructure Commission found. As a result, the Michigan Infrastructure Council (MIC) was created to scale the program at the state level, determine a method for gathering data and helping to create a local, regional structure for discussions and future planning. The Water Asset Management Council (WAMC) was also created to replicate TAMC's success, but this time with Michigan's water infrastructure.

'Worst first' isn't working

Before asset management caught on, most road agencies, public water works and sewer systems operated with a "worst first" mentality. That meant that roads with the most potholes or water mains that burst more frequently were fixed first, and other infrastructure got whatever was left in the budget. The problem with this approach is the worst infrastructure can suck up a public works department's entire budget, Tubbs said.

"In doing so, you're leaving 90 percent of your infrastructure system to further decline because you didn't do preventive maintenance," she said.

Without preventive maintenance and planned replacement projects, failures and breaks inevitably arise. Local agencies operate in a constant state of triage, sprinting from emergency to emergency and slapping on Band-Aid fixes. Not only is this approach inefficient, it's also expensive.

Without asset management, township utilities can easily be caught off guard by hefty projects. Chocolay Charter Township officials thought their small wastewater system's fund balance of \$1.5 million was healthy—until a detailed analysis revealed they needed an upgrade with a price tag of \$3 million.

Asset management forces utilities to think beyond regular operating expenses, scrutinizing its infrastructure and predicting how long it might last. Then, they can save for that project years in advance rather than turning to bonds or other funding sources.

"If you don't properly consider those things into your rate structure, you'll find yourself behind the eight ball when it's time to do the project, like we are," Kangas said.

More than a database

Asset management goes beyond simply keeping a list of your township's pipes, roads and sewers—it's a process. Communities that practice asset management continually inventory their infrastructure, as well as its condition. They don't just know where their pipes are—they know the material it's made of and its age. Then, they use that information to predict when infrastructure might need to be repaired or replaced.

Those predictions are turned into capital improvement plans that are used to create water rates, road millages or other revenue sources to avoid relying on loans and bonding for infrastructure projects. For example, a township might plan a

maintenance project for 25 years down the road on a section of pipe that will near the end of its useful life at that point.

Tubbs never plans a road project without consulting the data first. She analyzes which sections of road have a PASER rating of 4 to 7, meaning they're in fair or good condition and haven't yet hit a critical distress point where they deteriorate more rapidly. Then, she plans preventive maintenance such as chip and seal or crack fill, which cost anywhere from \$100,000 per mile to as little as \$5,000 per mile and can extend the life of a road in good condition by two to seven years. By contrast, repairing a road in poor condition can cost as much as \$350,000 per mile to bring it back to good condition and won't slow the already rapid deterioration process.

Long before asset management became a catch phrase, **Bob Belair's Canton Charter Township** (Wayne Co.) public works department was busy creating a geographic information system (GIS) platform where it could track every water main, sewer pipe and sanitary structure in the township. Once employees compiled these records into one central inventory, they were plugged into the GIS map.

Like other communities, Canton Charter Township had relied on a map on the wall with push-pins representing infrastructure. Employees with decades of service knew where water mains were likely to break or where they received the most calls for sewer back-ups, solely based on their experience. Belair, the township's public works manager, wanted to take that information off the map, out of his employee's heads and into the GIS database. His township's work to inventory its

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cover story



Asset management goes beyond simply keeping a list of your township's pipes, roads and sewers—it's a process. Communities that practice asset management continually inventory their infrastructure, as well as its condition.

water assets led to Canton Charter Township being cited as an example in the state's 21st Century Infrastructure Report.

"We all had ideas of what we had, and we would develop plans of how we wanted to maintain our infrastructure, but if you have a good GIS database and asset management software where you can actually track your assets, and track backups or water main breaks or valve failures, and you start seeing the information on an actual map, you can track and plan for which areas will need township resources," Belair said.

It doesn't sound like rocket science. If anything, inventorying assets and using the data to plan for the future sounds like common sense. But moving past the push-pin map took years of work—years of plugging asset age, size, material and location into the GIS database. The department's full-time supervisor and two part-time employees are still busy collecting and inputting other useful information as well. Last year, for example, the department identified every home in the township with irrigation systems.

With the GIS database in place, they bought asset management software called Cityworks, which tracks the public works department's service requests and the costs associated with each repair. Belair doesn't have to estimate how much it costs to run his department—he can rely instead on real-time numbers.

Miles to go

Transportation asset management is decades ahead of water asset management, said **Cameron Van Wyngarden**,

Plainfield Charter Township (Kent Co.) superintendent and township representative on the state's Water Asset Management Council (WAMC). While local road commissions might have their own methods or preferences, agencies across the state have already agreed upon standards for roads—and a database to track their condition. And the state is already requiring road agencies to create asset management plans.

But no one knows how many miles of pipe are in Michigan, what they're made of and what condition they're in. A recent American Water Works Association voluntary survey revealed an estimated \$800 million annual need for drinking water systems. While that number is a place to start, it's not enough to launch an advocacy campaign for a greater state investment.

A major reason transportation is so far ahead of water infrastructure is roads are inherently easier to assess. No special equipment is needed, and even the average person can tell when a pothole-riddled road is failing—though Tubbs pointed out it takes more analysis to determine the underlying soil and road materials.

Underground infrastructure presents an entire set of challenges, Van Wyngarden said. While sewers can be checked with special cameras, water mains and pipes can't be assessed without digging. Then there's the issue of pipes on private land beyond the public right-of-way, which were installed by the homebuilder and could pre-date the period where anyone was concerned with tracking where pipes were located and what they were made of. Even today, some developers don't provide good records.

Without a public inventory, the state and communities are left with unknowns that could even mean a public health risk, as recent water contamination issues have shown, Van Wyngarden said. The goal of WAMC is to one day have a database and rating criteria so that public water works and sewer systems can pull from statewide data as they plan projects. Not only would this help local public works departments operate smarter, but it would also encourage more collaboration in projects. For example, if a water main breaks beneath a road that might be a few years away from full replacement, the road agency could work with the utility to replace the section of road above the water main, then finish the half of the road with a mill and overlay. Then, the two entities could share the construction costs, Van Wyngarden said—saving the local unit money and minimizing disruptions to residents.

Potential roadblocks

While some municipalities are already using asset management, many aren't. Money is the biggest obstacle, and local units short on resources might not be able to move toward asset management without help. The state doesn't

have a plan yet for offering assistance, though grants such as the Stormwater, Asset Management and Wastewater (SAW) program are available. Small townships could also join with neighboring municipalities to pool their resources—a natural solution born of the collaboration so key to asset management.

Time is another huge challenge, especially for townships still in the push-pin map phase. Employees have constant demands on their time, and the idea of creating a new database from scratch is daunting. Belair has one piece of advice: Just get started. Whether it's buying software, looking for free resources or entering a page of data in an employee's down time, those small steps will add up over time—and more time will open up.

We don't own infrastructure. Does asset management apply?

The state's assessment management councils are still in their infancies and have met just a handful of times, if at all. Once they plan and set a long-term vision, they'll work to create a statewide asset management database where a wide variety of infrastructure types can contribute—roads, bridges, waterworks, sewer, stormwater and private utilities.

Even townships without a public sewer or water system have a stake in this process—every local unit has roads and pipes running through it, even if they're owned by another entity. Your township can help to report information and offer insights on conditions and environmental factors.

Ayers envisions putting that information onto a map, where it's easy to identify areas that are strong and areas that

need work and investment. Then, policymakers could use the map to develop a long-term investment strategy—and advocate for adequate funding. Townships can also encourage collaboration by communicating with private utilities about upcoming projects and looking for ways to work together.

With literally thousands of entities involved, and dozens of moving parts, no one knows for sure how all the pieces will fit together and where they'll land.

"This 21st Century Infrastructure group is a start. It's got to start somewhere," Belair said. "There's a lot of information. It's almost overwhelming. But I think there's a lot of potential. There is a great need for it."

Data entry or site visits might look like busy work, but Van Wyngarden promises these mundane tasks are a crucial part of the statewide strategy.

"Local governments will have to be partners," he said. "It's not just busy work. It truly is in all of our best interest. Asset management is the key to maintaining our infrastructure and making sure our systems don't break down."



Bethany Mauger,
MTA Staff Writer

Mika Meyers PLC
Attorneys at Law



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2019 Board of Review Training

REGISTRATION INFORMATION

To assist board of review members, alternates, township supervisors and assessors in preparing for 2019 board of review sessions, MTA is conducting half-day *Board of Review Training* at 13 locations throughout the state. Concurrent sessions offered at each location allow participants to choose the appropriate level and topics of interest. The advanced session is geared to experienced board of review members, while the basic session acquaints newer board of review members with their statutory duties and requirements.

Dates and locations are:

- Jan. 29: Ramada, Alpena
- Jan. 30: Eagle Pointe Plaza, Hale
- Jan. 31: Bavarian Inn Lodge, Frankenmuth
- Feb. 5: Magnusson Franklin Square Inn, Houghton
- Feb. 6: Island Resort Conference Center, Harris
- Feb. 7: Bay Mills Resort, Brimley
- Feb. 12: Boyne Highlands, Harbor Springs
- Feb. 13: Evergreen Resort, Cadillac
- Feb. 14: Shoreline Inn Conference Center, Muskegon
- Feb. 19: Comfort Inn Conference Center, Mt. Pleasant
- Feb. 20: Hawk Hollow Conference Center, Bath Charter Township
- Feb. 21: Fetzer Center at WMU, Kalamazoo
- Feb. 22: Comfort Inn Conference Center, Chelsea



Download directions or register online at www.michigantownships.org.

Registration check-in & light lunch begins at 11:30 a.m.
Sessions are from 12:30 to 4:30 p.m.

Cancellation, Substitution & Switching Policy

Written cancellation requests received at the MTA office at least two weeks prior to the event date will receive a full refund. No refunds will be issued thereafter. You may switch workshop locations at no charge if you notify MTA of the change at least one week prior to the workshop; otherwise, a \$25/person fee will be assessed. You may substitute another individual from the same township for your registration at any time without incurring a charge; please notify MTA of the change.

Advanced Session: What's New and In Review

- Fee Appraisal vs. Mass Appraisal: How/why it's important
 - Uniformity: Who has the burden of proof?
 - Using facts, not feelings!
- New cost manual in use this year
 - Review the new assessors cost manual; find out why it may trigger appeals
- 2019 procedural changes & bulletin review

Instructor varies by location:

Debby Ring, Michigan Master Assessing Officer;
Shila Kiander, MMAO, Director, Mecosta County Equalization;
Laurie Spencer, MMAO, Director, Leelanau County Equalization;
and Sharon Kennedy, MMAO, Director, Chippewa County Equalization

Basic Session: Getting Started Right

- Review of the assessment process
- Overview of the board of review's statutory authority
- Responsibilities of the assessor and township supervisor
- Understanding what can be appealed and the documents used to review appeals
- How to listen to, and act on, protests
- What's new this year

Instructor:

Cindy Dodge, MTA Member Information Services Liaison & Michigan Certified Assessing Officer

SESSION CONTENT



SPECIAL DISCOUNT:

Members may purchase a 2019 edition of MTA's comprehensive and updated *Board of Review Guide*, at a discounted rate of \$34.50, when registering for the class.

Board of Review Training Registration Form

Please indicate which session EACH person will attend AND whether a book is desired.

TOWNSHIP _____		COUNTY _____	
TELEPHONE _____		EMAIL _____	
NAME & TITLE _____	Attending: <input type="checkbox"/> Advanced <input type="checkbox"/> Basic	Need a book?	<input type="checkbox"/> Yes <input type="checkbox"/> No
NAME & TITLE _____	Attending: <input type="checkbox"/> Advanced <input type="checkbox"/> Basic	Need a book?	<input type="checkbox"/> Yes <input type="checkbox"/> No
NAME & TITLE _____	Attending: <input type="checkbox"/> Advanced <input type="checkbox"/> Basic	Need a book?	<input type="checkbox"/> Yes <input type="checkbox"/> No
NAME & TITLE _____	Attending: <input type="checkbox"/> Advanced <input type="checkbox"/> Basic	Need a book?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Which location will you attend?

Jan 29: Alpena
 Jan 30: Hale
 Jan 31: Frankenmuth
 Feb. 5: Houghton
 Feb. 6: Harris
 Feb. 7: Brimley
 Feb. 12: Harbor Springs
 Feb. 13: Cadillac
 Feb. 14: Muskegon
 Feb. 19: Mt. Pleasant
 Feb. 20: Bath Charter Township
 Feb. 21: Kalamazoo
 Feb. 22: Chelsea

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 _____

REGULAR rate*: \$113 For paid registrations received after Jan. 16.

EARLY-BIRD rate*: \$91 For paid registrations received by Jan. 16.

____ (# registered) x \$ ____ (rate) = \$ ____

____ (# of books) x (\$34.50/book*) = \$ ____

AMOUNT ENCLOSED = \$ ____

*Rate applies to MTA members; non-members, call MTA for rates.



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. Questions? Call (517) 321-6467.

upcoming MTA workshops

REGISTRATION INFORMATION

January workshops explore board roles, assessing and taxation

Join MTA at the **Okemos Conference Center** on **Jan. 23** and gain insights into how your role as a board member relates to the board as a whole. We'll also help you understand the fundamentals of assessment and taxation. Register for one (or both!) of the sessions described below:



Township Board Roles & Relations

(B-101 - 4 credits; includes lunch served at 11:30 a.m.)

Jan. 23 from 12:30 to 4 p.m.

Examine your role as a board member and how you fit into the board as a whole. Discuss the roles of watchdog, supporter, planner, communicator and manager, as well as the relationships among board members, appointed and elected officials, and the board with the community. Identify the fundamentals of leadership and the ethical standards specific to public servants.

Presented by Larry Merrill, MTA Executive Director

Fundamentals of Assessment & Taxation

(F-105 - 4 credits; includes dinner served at 6 p.m.)

Jan. 23 from 4:30 to 8:30 p.m.

Approved by the State Tax Commission for four hours of elective credit for assessors

Property taxation and assessment administration are two cornerstones of township operations. From assessment and board of review meetings, all the way to tax collection—it's essential that board members have an understanding of how the process works. Learn more about the Headlee Amendment and Proposal A, as well as truth-in-taxation, assessing and equalization. Delve into a variety of revenue sources coming into the township, including millages, administrative fees and special assessments.

Presented by Shila Kiander, MAAO, Director, Mecosta County Equalization Department

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 Jan. 9 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 _____

Telephone _____ Email _____

Name & Title _____ Board Roles Fundamentals Both classes

Name & Title _____ Board Roles Fundamentals Both classes

Name & Title _____ Board Roles Fundamentals Both classes

Name & Title _____ Board Roles Fundamentals Both classes

	Regular Rate* After Jan. 9	Early-Bird Rate* Before Jan. 9
Board Roles (B-101)	\$109/attendee	\$ 89/attendee
Fundamentals (F-105)	\$109/attendee	\$ 89/attendee
FULL PROGRAM: Both sessions	\$218/attendee	\$178/attendee

# of Sessions	Registration Fee	Total
_____	_____	_____
	x	=

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

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

- Check enclosed (payable to MTA)
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Clearing the haze on recreational marijuana in Michigan

The new Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, MCL 333.27951, *et seq.*, took effect on Dec. 6, 2018, following approval by voters of Proposal 1 on the November ballot. The new law, which allows individuals to use marijuana for recreational purposes, has raised many questions about how it will be implemented and what townships can—and cannot—do.

It is important to note that the parts of the new law that allow for recreational marijuana establishments to be licensed by the state and permitted by municipalities did not go into effect on Dec. 6. The Michigan Department of Licensing and Regulatory Affairs (LARA) has up to a year from the act's effective date to promulgate rules and begin issuing licenses.

The following are some of the common questions, and answers, surrounding recreational marijuana in Michigan.

What is legal in Michigan now?

Following the passage of Proposal 1 of 2018, there are now four categories of legal marijuana use in Michigan:

1) **Under the original Medical Marihuana Act** (the original statewide ballot initiative in 2008; MCL 333.26421):

We still have the medical marijuana qualified patient and registered caregiver system.

2) **Under the existing Medical Marihuana Facilities Licensing Act** (Public Act 281 of 2016, MCL 333.27101):

We have a state licensing system for licensed medical marijuana facilities, such as provisioning centers and grow operations to serve the patients and caregivers in the medical use of marijuana.

3) **Under the NEW Michigan Regulation and Taxation of Marihuana Act** (Initiated Law 1 of 2018, MCL 333.27951):

Individuals: Individuals anywhere in Michigan may now use marijuana for individual recreational purposes, as long as they comply with the act. A township cannot prohibit or regulate that use.

Recreational marijuana establishments (*grow operations, stores, etc.*): “Recreational marijuana establishments” may be licensed by the state and local units to serve anyone regarding recreational marijuana use. A township can choose to prohibit any or all types of recreational marijuana establishments by adopting an ordinance. There is no deadline for a township to decide to do so. BUT that ordinance is subject to referendum to have it voted up or down on a ballot. There is no deadline for referendum.

Note that marijuana is still an illegal (“scheduled”) drug under federal law.

Will there continue to be separate systems for “medical” and “recreational” marijuana use?

We do not know. The Michigan Medical Marijuana Facilities Licensing Act and the Marijuana Tracking Act are both statutes adopted by the Legislature and may be amended or repealed at any time.

The Medical Marijuana Act and the Michigan Regulation and Taxation of Marijuana Act are both statewide initiatives. Under Article II Section 9 of the Michigan Constitution of 1963, “No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof.”

What are a township’s options as an employer?

A township board may take steps to address how a person may or may not use marijuana for medical or recreational purposes while working for the township, or when in township facilities or on township property.

A township board should work with its attorney, human resources staff/consultants, labor negotiators and insurance carriers to develop or amend policies addressing marijuana use. Consider reviewing policies regarding alcohol use as a starting point (once banned by federal law, now lawful under state licensing and regulation).

Also, because the Michigan Medical Marijuana Act and the Michigan Regulation and Taxation of Marijuana Act have different language describing the protections of each act, be sure to work with the township’s attorney, human resources staff/consultants, labor negotiators, and insurance carriers for specific guidance on how to handle the discipline or discharge of specific individuals.

The following information is intended as a general informational overview, not a legal opinion, and existing or future court opinions could impact a township’s actions.

Under the Michigan Regulation and Taxation of Marijuana Act:

- An employer may prohibit conduct involving recreational use of marijuana otherwise allowed by the act in any workplace or on the employer’s property. An employer is not required to permit or accommodate.
- An employer may discipline an employee for violation of a workplace drug policy or for working while under the influence of marijuana.
- An employer may refuse to hire, and may discharge, discipline or otherwise take an adverse employment action against a person with respect to hire, tenure, terms, conditions or privileges of employment because of that person’s violation of a workplace drug policy or because that person was working while under the influence of marijuana.

What are a township’s options as a property owner?

Under the Michigan Regulation and Taxation of Marijuana Act:

- A person may prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marijuana and marijuana accessories on property the person owns, occupies or manages, except that a lease agreement may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking.
- A person cannot consume marijuana in a public place or smoke marijuana where prohibited by the person who owns, occupies or manages the property, except in an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age.

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What's allowed—and what's not—for individuals?

The new law allows an individual who is at least 21 years old to possess, use, consume, purchase, transport or process up to 2.5 ounces of marijuana. Of this, no more than 15 grams can be in the form of marijuana concentrate. A person may also give this amount free to another individual who is at least 21 years old. As long as it's within a person's home, up to 12 marijuana plants at one time may be cultivated for personal use. Up to 10 ounces of marijuana, plus any marijuana produced by the plants, may be kept at home, as long as amounts over 2.5 ounces are stored securely.

Recreational marijuana will be regulated similarly to alcohol—the substance is banned for those under 21, it cannot not be consumed on school property, and operating any type of vehicle while under its influence is illegal. It also cannot be consumed or smoked in a public place, except for areas designated for marijuana use that aren't accessible to people under 21.

Marijuana plants cannot be grown if the plants are visible from a public place without the use of binoculars, aircraft or other optical aids, or are outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area. (Note: This is not a complete list of unlawful activities for individuals involving recreational marijuana).

What about recreational marijuana establishments?

"Recreational marijuana establishments" may be licensed by the state and local units to serve anyone regarding recreational marijuana use. LARA must develop rules to implement the act within a year of the Dec. 6 effective date. No recreational marijuana establishment will be lawfully licensed in a township in the meantime.

Townships may ban or limit any marijuana facilities from their jurisdictions, and also regulate hours, locations and other key aspects of the businesses. **However, unless a township passes an ordinance opting out**, the state will issue a license to qualified marijuana facilities seeking to locate there.

There is no legal advantage or disadvantage to adopting an ordinance now compared to waiting to see how LARA implements the new licensing program. Note that a regulatory ordinance a township adopts to allow, limit or prohibit recreational marijuana establishments will still be subject to potential referendum (petition to place it on a ballot at an election to be approved or disapproved) at any time in the future.

Township boards should work with their township attorney for specific guidance on the pros and cons of different approaches to recreational marijuana establishments. And a township that is considering amending its zoning ordinance regarding recreational marijuana establishments

should work directly with its township attorney for guidance on how and when to do so.

MTA does not advise townships to take a specific approach to recreational marijuana establishments; that is a local authority policy decision that each township board may make based on your community's interests and needs. MTA is not currently providing an ordinance to permit recreational marijuana establishments because LARA has up to a year to adopt rules to spell out the state licensing process and things could change in that time, and we anticipate there will be variations between municipalities. Townships can look at the sample ordinance to "opt in" to medical marijuana facilities, available from MTA, to see a basic model of a permitting ordinance that your township could adapt, working with your township attorney, to permit recreational marijuana facilities.

Additional resources available

To help township boards consider their options under the new law, MTA has developed an informational packet, *Townships & Marijuana Regulation after Proposal 1 of 2018*, available on "Marihuana-Marijuana" webpage the members-only section of www.michigantownships.org (after logging in, access via the "Index of Topics" under the "Answer Center" tab). The packet includes the text of the proposal and MTA's Sample Ordinance to Prohibit Recreational Marihuana Establishments, along with additional information on both recreational and medical marijuana.

In addition, the 2019 Annual Educational Conference will include an educational session on "Medical vs. Recreational Marihuana: Clearing the Air," taught by MTA Legal Counsel David Revore, with the firm Bauckham, Sparks, Thall, Seeber & Kaufman, PC. Check out the Conference registration brochure in this issue of *Township Focus* for additional information. MTA-member officials may also contact MTA's Member Information Services Department at (517) 321-6467 with questions.

We will continue to keep members updated as this issue evolves.



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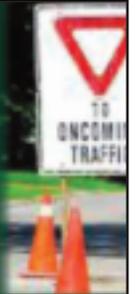
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