

Michigan Township voice



A LEGISLATIVE UPDATE FOR TOWNSHIP OFFICIALS | OCTOBER 2018



GAAMPs draft would allow large livestock facilities almost anywhere

Large livestock facilities could be allowed to locate almost anywhere, with no consideration of local zoning, under a draft of a section of the Generally Accepted Agricultural Management Practices (GAAMPs).

The Michigan Commission of Agricultural and Rural Development could consider as early as Nov. 7 a proposed draft of the Site Selection and Odor Control for New and Expanding Livestock Facilities GAAMPs. If this draft becomes final, local zoning considerations would be eliminated from site selection criteria—essentially ignoring local decisions and future land use planning.

MTA strongly opposes removing zoning considerations from the GAAMPs and Michigan Department of Agriculture and Rural Development (MDARD) policy.

MTA urges township officials to submit written comments to [commission members](#) immediately to share your objection to this proposed policy. Comments may also be given at the commission's next meeting, scheduled for 9 a.m. Wednesday, Nov. 7, at the Trevor Nichols Research Center, Howitt Training Room, 6237 124th Ave., Fennville.

While local units have limited input on where agricultural operations may locate, the current GAAMPs prevent large agricultural operations, such as confined animal feeding operations (CAFOs), from locating outside of agricultural zones. The Site Selection Task Force, which includes an MTA representative, recommended against removing zoning considerations when presented with an overhaul of the 2019 Site Selection GAAMPs.

MDARD has said the removal was part of a policy decision and pointed to [Attorney General Opinion 7302 of 2018](#) as a basis for its opinion that zoning requirement references are contrary to the law. However, the opinion does not make such a broad statement, and actually states that the courts have *not* held that every activity on a farm is outside of local regulation or that local units are required to take affirmative action to assist farms in their operations.

MTA sent a [letter to MDARD](#) urging the commission not to eliminate zoning from site selection criteria, as well as an action alert to members imploring swift action.

MTA has provided talking points (see page 2) for members to use when submitting comments. Written comments must be sent to either MDA-Right-To-Farm@michigan.gov or to MDARD's Environmental Stewardship Division, P.O. Box 30017, Lansing, MI 48909. You may also attend the Nov. 7 meeting. Please do not hesitate to contact legislation@michigantownships.org or (517) 321-6467 with questions.

in this issue

- 2 Member input sought on 2019 MTA policy platform
Assessing bills could see positive amendments
- 3 Three statewide proposals before voters Nov. 6

MTA opposes the removal of zoning as:

- Zoning regulations and decisions have been subject to state and federal law and constitutional standards for almost 100 years, including comprehensive master planning that must include stakeholder input and mandated procedures to provide due process to protect property interests and avoid arbitrary decisions.
- The numbers of animal units, setbacks and other standards in the GAAMPS for Site Selection and Odor Control for New and Expanding Livestock Facilities are arbitrarily selected and have not been subject to scientific review or testing.
- The Site Selection Task Force recommended against such action.
- It ignores community decisions, will not improve agricultural sustainability and will lead to future disputes.
- Removing zoning from the Site Selection GAAMPS would allow large livestock facilities to be located almost anywhere.
- MDARD should continue to be mindful of how local regulations balance the property rights of all.
- The courts have not held that every activity on a farm is outside of local regulation or that local units are required to take affirmative action to assist farms in their operations.

Member input sought by Nov. 5 on 2019 MTA policy platform

MTA wants your input on next year's Legislative Policy Platform.

This important document guides MTA's Government Relations legislative efforts. Each year, we take a fresh look at our policy platform, updating it with emerging issues

and goals that have already been met. Members are also asked to provide policy suggestions by **Monday, Nov. 5.**

The proposed 2019 policies will be presented for membership approval at the 2019 MTA Annual Meeting, to be held Thursday, April 4, 2019, in conjunction with the 66th MTA Annual Educational Conference & Expo in Grand Rapids. Proposed policies submitted by the deadline will be reviewed by MTA committees for word selection and legality, as well as to ensure they conform with the Association's overall goals and objectives.

MTA's 2018 Policy Platform is available [online](#). Contact the MTA Government Relations Department at (517) 321-6467 or email legislation@michigantownships.org.



Assessing bills could see positive amendments

A legislative workgroup continues to work on provisions in the assessing reform legislation, which could be considered by the Legislature in the 14 remaining session days of the 99th Legislature.

The two bills—[Senate Bill 1025](#), sponsored by Sen. Jim Stamas (R-Midland Chtr. Twp.), and [House Bill 6049](#), sponsored

by Rep. James Lower (R-Cedar Lake)—were introduced earlier this year to fundamentally change Michigan's assessing system. As written, they would phase in comprehensive quality standards for all local tax-collecting units over five years. The bills have been the subject of workgroup meetings and legislative conversations with many comments, concerns and amendments discussed. Some of the remaining issues of concern to be resolved include providing adequate due process, clarification of definitions and the required payment when a designated assessor must become the assessor of record for a local unit.

The meetings and discussions to date have been positive and all participants anticipate the final version of the legislation to contain significant revisions from the two bills as introduced. The changes discussed at this time include:

- Retaining current assessor qualification—thereby allowing MCAO (Level 2) assessors to continue as assessors of record contingent on meeting compliance requirements
- Removing the full-time assessor requirement
- Requiring local units to adopt and post a policy on how to contact their assessor including minimum response time
- Requiring assessing entities to meet quality standards including:
 - Properly developed and documented land values
 - Assessment database that does not exceed more than 1 percent in override
 - Properly developed and documented economic condition factors
 - Annual personal property canvass and sufficient personal property records
 - Requiring assessing entities not in substantial compliance to submit a corrective action plan; if it fails to obtain compliance, the local unit would be required to contract with a designated assessor

As MTA has previously shared, any agreement on the proposed changes are contingent on all provisions and issues that remain to be resolved in the very near future.

MTA will keep members updated as discussions progress, and will share the revised proposal when it becomes available.





Three statewide proposals before voters Nov. 6

Next month, voters will be asked to consider three ballot proposals covering issues from recreational marijuana to straight-party voting when they head to the polls on Nov. 6.

Proposal 18-1 would legalize recreational marijuana, and also allow townships to prohibit or limit recreational marijuana facilities from their jurisdictions by passing an ordinance. Under Proposal 18-2, Michigan's state House and Senate district boundaries, as well as congressional boundaries, would be determined by a new 13-member commission made up of selected applicants to represent Republicans, Democrats and political independents. Proposal 18-3 would provide voters with new voting rights, including straight-party voting, in-person registration extended to Election Day and no-reason absentee voting.

MTA did not take a position on these proposals but is providing information on the ballot proposals to inform members of the impact to townships. Analyses by three nonpartisan agencies/organizations provide more detailed information on each proposal, and are available on the [House Fiscal Agency](#), [Senate Fiscal Agency](#) and [Citizens Research Council of Michigan](#) websites.

Recreational marijuana could be legalized under ballot proposal

Ten years after Michiganders voted to legalize medical marijuana, they'll cast their ballots to decide whether to extend that legalization to recreational marijuana.

If approved next month on the Nov. 6 general election ballot, [Proposal 18-1](#) would allow adults who are at least 21 years old to use and possess certain amounts of marijuana, and even grow plants in their home. A new licensing and regulatory framework would be created for retailers and growers, among other related businesses. Taxes collected on the marijuana would help patch potholes and funnel more dollars to schools, and a portion would also go to the local government in which the licensed facility is located.

Townships could ban or limit 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 would be required to issue a license to marijuana facilities seeking to locate there.**



MTA did not take a position on the ballot proposal as MTA's member-initiated and member-approved policy platform does not address recreational marijuana.

For years, a variety of groups have pushed for marijuana to be legalized, citing Michigan's over-crowded jails filled with more people arrested for marijuana possession than for violent crimes. Some have also pointed to racial and socioeconomic disparities found in marijuana arrest data. Proponents say legalizing marijuana would save money by slowing the rapidly growing prison population and potentially improve social justice. However, opponents say a regulatory system would not eliminate the black market, and that the proposal does not generate the resources that would be needed to deal with public safety issues, marijuana abuse and other related public health issues.

Under Proposal 18-1, the current medical marijuana system would remain in effect, and a new act called the Michigan Regulation and Taxation of Marihuana Act would be created, allowing 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 could be in the form of marijuana concentrate. A person could also give this amount for 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 could be cultivated for personal use. Up to 10 ounces of marijuana, plus any marijuana produced by the plants, could be kept at home, as long as amounts over 2.5 ounces are stored securely.

Marijuana would be regulated similarly to alcohol—the substance would be banned for those under 21, it could not be consumed on school property, and operating any type of vehicle while under its influence would be illegal. It also could not be consumed or smoked in a public place, except for areas designated for marijuana use that aren't accessible to people under 21. Additionally, the measure would not stop an employer from enforcing its own workplace drug policies, and landlords could still regulate or ban marijuana use on their properties.

Businesses that sell, grow, process or transport would be required to obtain a license before they could operate in your township. However, the licensing process would be different than the current process outlined in the Medical Marijuana Facilities Licensing Act (MMFLA). Under the MMFLA, townships must adopt an ordinance allowing medical marijuana facilities, essentially “opting in” to the system. **If Proposal 18-1 passes, townships would have to “opt out” by passing an ordinance banning or regulating recreational marijuana facilities.** Without such an ordinance, facilities would be allowed to obtain a license to operate there.

A township's ordinance could limit the number of establishments allowed within its jurisdiction or ban them outright. They may also set reasonable restrictions on public signs for marijuana establishments, as well as regulate the time, place and manner of their operation, as well as the production, manufacture, sale or display of marijuana accessories. Additionally, townships could require marijuana establishments to also get a municipal license before operating.

To help offset administrative costs, townships could charge an annual fee of up to \$5,000 per license. It could also set a \$5,000 civil fine for any marijuana ordinance violations. However, no ordinances could restrict transporting marijuana through the municipality. Municipal ordinances also could not be adopted if they're unreasonable or impracticable.

Each marijuana retailer and microbusiness would be charged a 10 percent excise tax on marijuana sales, to be collected by the state Department of Treasury and deposited into a Marijuana Regulation Fund. This money would first go to implementation, administration and enforcement of the act. Then, for at least two years or until 2022, \$20 million annually would be required to conduct one or more FDA-approved clinical trials studying the use of marijuana in treating U.S. Armed Forces veterans and in preventing veteran suicide. Any balance afterward would be allocated in the following formula:

- 15 percent to municipalities where a marijuana retail store or microbusiness is located, in proportion to the number of businesses in the municipality.
- 15 percent to counties where a marijuana retail store or microbusiness is located, in proportion to the number of businesses in the county.
- 35 percent to the School Aid Fund, to be used for K-12 education.
- 35 percent to the Michigan Transportation Fund, to be used for the repair and maintenance of roads and bridges.

The Michigan Department of Licensing and Regulatory Affairs (LARA) would be responsible for administering the new act. LARA would grant or deny applications, create rules to implement and administer the act, and collect license fees and fines. Licenses would be issued in categories similar, but not identical, to those under the MMFLA, including marijuana microbusinesses, retailers, processors, safety compliance facilities, secure transporters and multiple classes of growers.

LARA would be required to begin accepting applications within one year after the act's effective date. For the first two years, it could

only accept applications for a Class A (up to 100 plants) grower license or microbusiness license from Michigan residents. During that period, only persons licensed under the MMFLA could apply for a retailer, processor or other classes of grower licenses. Any applicant could be accepted for a safety compliance facility license. After the first year was over, the restrictions would lift, and LARA could accept applications from any applicant, but only if LARA determined that more licenses were necessary to efficiently meet the demand for marijuana, curtail the illegal market or provide reasonable access to marijuana in rural areas.

If LARA did not create rules or accept or process applications in a timely manner, a person could, starting one year after the act's effective date, apply for a recreational marijuana establishment license directly with the municipality where it would be located. The local unit would have to issue a municipal license within 90 days of receiving the application, unless it wasn't in compliance with the act or rules and notifies the applicant of that finding. The municipal license would have the same authority as a state license, but the license holder would not be subject to LARA regulation or enforcement during that license's term.

Michigan would get a new redistricting process under Proposal 2

For decades, Michigan lawmakers have been tasked with shaping boundaries of congressional, and state House and Senate districts. A proposal on next month's ballot would shift that responsibility to a select number of registered voters instead.

Proposal 18-2 would amend the state constitution to do away with the current method of determining boundaries, instead placing the process in the hands of a new Independent Citizens Redistricting Commission. Every 10 years, following a U.S. census, 13 commissioners would be selected from applicants to represent Republicans, Democrats and political independents. This commission would adopt redistricting plans that meet certain criteria and put each plan up for public discussion and comment. Then, the plan with majority bipartisan support would be adopted by the commission.

If this proposal is approved, Michigan's state and federal districts could be redrawn following the expected 2020 U.S. Census.

The proposal, commonly known as “Voters Not Politicians,” would open the Independent Citizens Redistricting Commission to applications from all registered and eligible Michigan voters. The only exceptions are for current or former lobbyists, elected officials or candidates for partisan federal, state or local offices, or a close relative of anyone disqualified under those criteria. Anyone selected as a commissioner could not hold a partisan elective office at the state, county, city, village or township level in Michigan for five years.

The Michigan secretary of state (SOS) would begin accepting commission applications starting Jan. 1 in the year a census is being conducted, such as 2020. Additionally, 10,000 applications would be mailed to randomly selected Michigan voters. The SOS would continue mailing applications to random voters until June 1, until qualifying applications were received in response to the mailing for 30 Democrats, 30 Republicans and 40 unaffiliated applicants. The SOS would continue eliminating incomplete or nonqualifying applications, as well as making random selections, and the party leaders of both state chambers could strike five applicants for a total of 20 strikes. The final commission would be selected by Sept. 1, with each commissioner to be paid at least 25 percent of the governor's salary, which amounted to at least \$39,825 in 2018.

The commission would have to hold at least 10 public meetings throughout the state and accept written submissions from anyone in the public before drafting a redistricting plan. Then, after developing at least one proposed plan for each type of district (state House, state Senate and U.S. House), the commission would publish the proposed plan and supporting materials.

For a plan to be adopted, it would have to meet the following requirements:

- Districts must be of equal population and must comply with the Voting Rights Act and other federal laws.
- Districts must be geographically contiguous. Island areas would be considered contiguous to the county of which they are a part.
- Districts must reflect the state's diverse population and communities of interest, which may include populations that share cultural or historical characteristics or economic interests. This does not include relationships with political parties, incumbents or political candidates.
- Districts must not provide a disproportionate advantage to any political party.
- Districts must not favor or disfavor an incumbent elected official or candidate.
- Districts must reflect consideration of county, city and township boundaries, meaning, ideally, townships wouldn't be split into multiple districts.
- Districts must be reasonably compact.

Before a plan could be adopted, the commission would test it for compliance using appropriate technology. Then, it would provide public notice of each plan being considered and allow at least 45 days for public comment.

Once a plan is adopted, the commission would publish it within 30 days as well as material reports, reference materials and data used in drawing it. It would also issue a report explaining the basis for the decision. Commissioners who did not agree with the adopted plan could submit dissenting reports. An adopted plan would become law 60 days after its publication, and the commissioners' terms would expire once their obligations were complete. Before that, the Michigan Supreme Court could remand a plan to the commission for further action if it failed to comply with constitutional requirements, both state and federal. However, no body except the Independent Citizens Redistricting Commission could adopt a redistricting plan. The functions of the commission would not be subject to the Legislature's control or approval.

'Promote the Vote' proposal to appear on November ballot

A ballot proposal up for a vote next month is meant to make the voting and voter registration process easier and more flexible, but would impact the work for township clerks.

Proposal 18-3 would amend Michigan's constitution to enshrine some actions that are current practice—including voting by a secret ballot, timely distribution of absentee ballots to military personnel, and a statewide audit of election results. Additionally, it would provide voters with five new voting rights: straight-party voting, automatic registration, registration by mail up to 15 days before an election, in-person registration extended to Election Day



with proof of residency, and no-reason absentee voting.

The logistics of how some of these amendments would work—such as in-person registration on Election Day—are not addressed in the proposal. MTA anticipates that the Legislature would follow up the proposal with implementation legislation if it passes.

If voters approve Proposal 18-3, in-person voter registration would be allowed up to, and even on, Election Day, with proof of residency. Registration would take place at the citizen's local clerk's office, not at the polling location itself. Without proof of residency, the person could register in person up to and including 15 days before Election Day. Some clerks are concerned about how they would update their voter file at polling locations if same-day registration is allowed. For example, some polling locations are not connected to the internet due to cybersecurity concerns. However, 15 states and the District of Columbia currently allow same-day registration. These logistical challenges are expected to be addressed in forthcoming legislation. Additionally, a person could register to vote by mail up to 15 days before an election, rather than the current requirement of at least 30 days.

One of the biggest changes to the state constitution would be the right to no-reason absentee voting. Currently, Michigan citizens may only vote with an absentee ballot if they expect to be out of town on Election Day, are 60 years old or older, are unable to vote without assistance at the polls, are in jail awaiting arraignment or trial, are unable to attend the polls due to religious reasons, or are appointed to work as an election inspector outside their precinct. Under Proposal 18-3, voters would not be required to give a reason to get an absentee ballot during the 40 days before an election. Voters could also choose whether the ballot is applied for, received and submitted in person or by mail. During that 40-day period, election officials would have to be available to issue and receive absentee ballots during regular business hours and at least eight hours during the Saturday and/or Sunday immediately before the election. Absentee ballots could be made available at other times and places as well.

Also of note is the right to vote a straight-party ticket. While Michigan had allowed the practice for years, the Legislature voted to ban straight-party voting in Public Act 268 of 2015. A federal court decision eventually allowed citizens to vote a straight ticket in 2016 and 2017; however, on appeal, the federal Sixth Circuit Court of Appeals ruled that straight-party voting would not be an option in the November 2018 election. Proposal 18-3 would instead enshrine this right in the constitution, eliminating the need for future court decisions.

MTA will update members on this proposal and any resulting legislation.

Michigan Townships Association

PO Box 80078

Lansing, MI 48908-0078

(517) 321-6467 Fax (517) 321-8908

legislation@michigantownships.org

MTA's Government Relations Department

Judy Allen, Director of Government Relations

Tom Frazier, Legislative Liaison

Michelle Hart, Government Relations Coordinator

Bethany Mauger, Staff Writer