

the review

March / April 2020

the official magazine of the  michigan municipal league

RETHINKING HOME RULE IN MICHIGAN & BEYOND



LOCAL vs. STATE
POWER STRUGGLE

the review

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the review

The official magazine of the Michigan Municipal League

Volume 93, Number 2

We love where you live.

The Michigan Municipal League is dedicated to making Michigan's communities better by thoughtfully innovating programs, energetically connecting ideas and people, actively serving members with resources and services, and passionately inspiring positive change for Michigan's greatest centers of potential: its communities.

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Local Preemption Adds to Hurdles Faced by Michigan Communities

Legislatively, we have another challenging year ahead of us. Communities continue to struggle with maintaining important services, funding capital improvements and infrastructure, and addressing underfunded pensions and retiree healthcare plans. Our advocacy efforts for legislative fixes to Michigan's municipal financial structure remain a critical focus. For decades, the State of Michigan has disinvested in its cities and villages to the point that local governments struggle to survive and thrive in our current climate.

This fact comes across loud and clear in the recent Public Sector Consultants (PSC) report—City Revenue Snapshot: Revenue Trends of Michigan Cities 2002 to 2017. The report shows that the Great Recession of 2008 took a significant toll on municipal revenues in Michigan, with a revenue decline of over \$337 million. It goes on to describe that communities have still not returned to pre-recessionary fiscal levels, as the result of sharp declines in taxable value and reductions in state revenue sharing. This tenuous condition leaves our communities and state vulnerable to economic down turns—which we will most certainly see again. As the State Legislature begins to focus on next year's budget priorities, it is imperative that they hear from us loud and clear about the importance of aligning state fiscal resources with our communities' own needs and priorities. It is the only way forward if we are going to build a strong future together.

A significant policy issue that needs to be brought to the forefront is the increasing efforts of state legislatures and Congress to pass preemption legislation. This action usurps the ability of local governments to set their own rules and policies that best represent and reflect their communities' and constituents' needs. Becoming a national trend, state legislatures are taking aggressive action to strike down laws that have been passed by local leaders, which not only puts democracy at risk, but erodes trust in government.

The National League of Cities (NLC) has been addressing this topic head-on through extensive research, surveys, and advocacy. Through their work, they have found that state legislatures have consistently struck down laws passed locally in the areas of local governance: economics, social policy, health, and safety. Learn more about this topic and action that you can take in our cover story starting on page 26.

Hopefully, you have already made plans to attend our annual CapCon in Lansing March 24-25. With a full legislative agenda, you can hear first-hand from our advocacy staff and a host of experts on a wide range of legislative topics. Michigan's Lieutenant Governor Garlin Gilchrist will kick off the conference, speaking on how to build and support thriving communities in Michigan based on conversations he has been having around the state. Be sure to make time to attend the Legislative Breakfast, as well. It is a great opportunity to personally meet your state representatives and their staff and directly share your questions and concerns.

One final note: With an abundance of readily available information, it can be a challenge to keep up-to-date with everything going on at the League. We all learn and retain information in different ways. The League's communication strategies have been developed to meet a wide range of communication preferences, developing a generous number of communication and resource tools from which to choose. Whether it is through the League's website, blogs, a library of printable reports and resources, social media outlets, podcasts, videos, seminars, or conferences, you can gain knowledge and stay informed in ways that best accommodate your time and personal learning style. We are always evaluating the best ways to serve you, so we appreciate your feedback on what works, what doesn't, and how we can improve!



Daniel P. Gilmartin
League Executive Director and CEO
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ONE SIZE DOES NOT

Local Governments Struggle with State-Wide Short-Term Rental Regulations

By Ulrik Binzer

The number of short-term vacation rental listings grew 100 percent across the United States and Canada between 2016 and 2019. In Michigan, listings grew 233 percent during the same period.

Today, Michigan has roughly 25,000 short-term vacation rentals. A short-term vacation rental (STR) is the rental of a residential dwelling unit usually for a period of less than a month. They are commonly booked through one of many online platforms, such as Airbnb and Vrbo. There are currently over 125 such providers of this service.

The STR market's growth has created controversy across the United States, from large tourist destinations to sleepy towns. Through my involvement in over 300 local government STR programs, I've learned that STRs can boost the local economy and provide additional income to homeowners. However, communities with STRs are often faced with parking problems, trash, noise, housing shortages, and safety issues. Hotels and traditional bed and breakfasts may also express concerns that hosts are not paying the same taxes or following the same rules. Legislators across North America are grappling with how to best regulate STRs, from banning them to deregulating them completely.

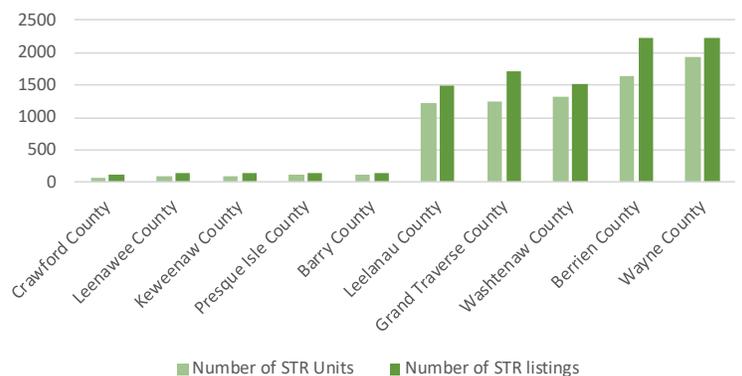
A Local Issue

The best regulations for STRs are made by local governments, which have the most to gain or lose from those regulations. Common objectives of STR policies are to preserve affordable housing, maintain neighborhood character, provide safety for residents and visitors, and ensure a level playing field between local businesses and STRs. Without proper STR regulations

and enforcement, cities and counties may see an increase in code violations and citizen complaints that can easily progress into a crisis, as some municipalities have described. Other communities have lost out on revenue from hosts not paying permit fees or taxes.

Additionally, STRs may represent a large share of permanent households in one community while they are nonexistent in another. In Michigan, Wayne County will require vastly different regulations for its over 2,000 rental units than Crawford County may need for its roughly 75 units. The same policy for two counties with drastically different situations simply wouldn't work.

Number of STR Units and Listings





FIT ALL

The Case Against State Preemption

Perhaps the most obvious examples of one-size-fits-all policies are those currently proposed at the state level. House Bills 4046 and 4554 currently sit with legislators in Michigan. Both bills place varying limits on local governments to create regulations related to zoning of STRs. In recent years, these types of laws have interfered with local governments' ability to adopt and enforce STR regulations that work for their communities.

Recent history from other states provides a great example of how state preemption can easily go wrong. In 2016, the State of Arizona passed Senate Bill 1350, which preempted local control of STRs. The law prohibits cities and counties from regulating STRs. Local governments can't place limits on usage, including occupancy limits, which means rental homes can have high occupancy rates and large parties and act as event venues. The bill also defines STRs as "individual or collectively owned" and as a "single-family or one-to-four family house." This definition allows companies to own STRs and STRs could act as mini hotels.

The bill's outcome has been disastrous. STRs are so profitable in high-demand tourist areas that they are displacing residents. According to an article published in the Arizona Republic, 20 percent of the City of Sedona's housing is STRs. More than 150 Sedona residents expressed outrage when the city manager displayed a map of Sedona's STRs during a June 2019 meeting. At the same meeting, long-term renters expressed fears that their landlords may turn their homes into STRs when their lease ends. The majority sentiment was to seek local control of STR regulations. One resident is quoted as saying, "We have a

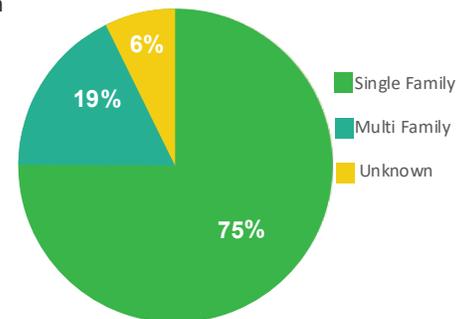
very good city council, and the state of Arizona has emasculated them in this area."

Arizona's governor, Doug Ducey, signed House Bill 2672 in May 2019. This bill attempted to correct the 2016 bill by prohibiting large parties at rentals and mandating that hosts provide contact information to cities as well as hold a transactional privilege tax license. But Sedona's meeting in June showed that there are still issues. Gov. Ducey stated in August that he was still hearing complaints and would revisit the state law. For three years, Arizona cities and counties have been pleading for the State to help with little resolution.

State Laws Around the U.S.

Arizona is not the only state to have passed preemptive laws related to STRs in recent years. In 2011, the State of New York passed the Multiple Dwelling Law (MDL), which applies to all cities with a population over 325,000. The MDL prohibits class A dwellings for purposes other than permanent residency. This means that most units in the City of New York can't be used as STRs.

STR UNIT BY TYPE



“Municipalities have a chance now to demonstrate successful regulations before state lawmakers step in.”

However, not all state laws are negative. Other states, like Missouri and Michigan’s neighbors, Indiana and Wisconsin, take a more balanced approach to preemptive laws. Wisconsin’s law states that municipalities can require STRs to hold a permit, but municipalities can’t prohibit rentals of 7 to 29 consecutive days. Perhaps the most promising law for local governments is Rhode Island’s law, which states, “all short-term rental units must comply with municipal laws and regulations.”

Protect and Prepare

State lawmakers should resist the urge to pass STR bills that preempt local regulations. Instead, they can seek ways to protect local government’s ability to adopt and enforce STR regulations that work for their communities.

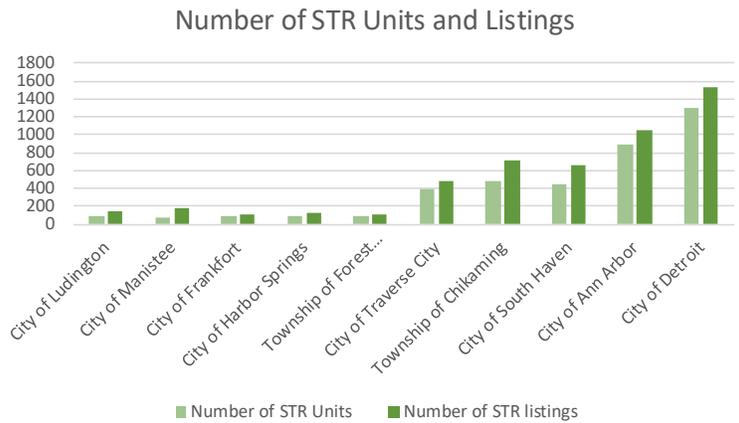
In the meantime, the STR market will continue to grow and change. Municipalities have a chance now to demonstrate successful regulations before state lawmakers step in. Many cities and counties across North America have already created strategic solutions based on technology, data, and public input to avoid being left behind. How will you influence the fate of your community? 

SAMPLE ORDINANCES

Wisconsin: <http://bit.ly/2RvBGYP>

Rhode Island: <http://bit.ly/37w0Egr>

Ulrik Binzer is the founder and CEO of Host Compliance—now a part of Granicus—which helps local governments cost-effectively research, draft, and enforce short-term rental regulations. You may contact him at 415.715.9280 or ulrik.binzer@hostcompliance.com.



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“METAMORA IS IN A BATTLE FOR THE FUTURE OF SO MUCH MORE THAN A SINGLE MINE. IT’S A FIGHT FOR THE FUTURE OF LOCAL CONTROL IN MICHIGAN.”

ROCKY ROAD

Gravel Mining Leads to Fight for Local Control

By Nick De Leeuw

Local residents know their communities best, and their decisions about important issues should be respected, not rejected, by Lansing. That’s why one piece of local government preemption legislation being debated in backrooms and committee hearings at the state Capitol has local government advocates and municipal leaders on edge.

The legislation, Senate Bill 431, was clearly written—and is being promoted by a veritable army of hired guns—to crush the will of local residents in a single sleepy community in rural Lapeer County. But the outcome of this legislative battle will be felt across the state.

For more than 30 years, the residents of Metamora have said “no thank you” to a massive new gravel mine in their community. Far from the stereotypical “not in my backyard” argument, it’s taking place in a community that has for generations embraced mining. Metamora is already home to four other large-scale gravel mining operations. It’s the unique characteristics of the proposed fifth industrial scale mine that have led local residents and their municipal government to staunch and repeated opposition.

“The new proposed mine would be located within 1,500 feet of a contaminated EPA Superfund site that has already polluted area groundwater,” said Victor Dzenowagis, owner



People opposed to a new bill that aims to remove local control on gravel mining operations wore these “Keep Control Local!” buttons during recent legislative hearings on the issue.

of the White Horse Inn and a member of the Metamora Land Preservation Alliance (MLPA). “Homes around the Superfund site already rely on bottled water, and further contamination could devastate the community—and threaten the health and safety of local families across the community.”

Unlike the other mines approved by the community, this new mine would also bring 200 gravel trucks through narrow community streets each day. The company itself admits it would add 20,000 trucks to the roads over the course of a single mining season. That kind of additional heavy traffic would destroy local infrastructure, raise maintenance costs, and catastrophically hamstring local economic development efforts.



Victor Dzenowagis, owner of the White Horse Inn, is just one of many Metamora residents concerned about the effects of a new mine.

Residents like Dzenowagis have spoken. Their local leaders have supported them. And the courts have agreed with them.

Industry Push Back

Now, a heavily funded legislative push by the Edward C. Levy Company and the Michigan Aggregates Association (MAA) is underway to overrule and strip all local input and control over mining decisions from residents of the small town—and as a side effect, from communities across Michigan.

The MLPA and groups like the Michigan Municipal League are standing up to them, and the stakes couldn't be higher. Senate Bill 431 would dramatically reduce municipal power to regulate or zone mining operations. Under the legislation, a mining company cannot be denied a permit for any reason whatsoever, if the company can demonstrate that the mine would be profitable and that it can avoid or ameliorate risks to public health or safety.

The letter of the proposed law is both specific and carefully crafted to thwart the decades-long will of Metamora Township, but it would affect every municipality in the state. If passed, there would be nothing to stop a giant for-profit company from mining a gravel pit in the middle of a school zone, or in the backyard of a local neighborhood.

The Back Story

To fully understand the broader danger, it's important to understand how we got here, and the lengths to which local government preemption advocates have gone to subvert the will of local communities.

In 1982, the Michigan Supreme Court handed down a ruling in *Silva v. Ada Township*, changing the power of local units of government to use zoning ordinances to keep out digging and drilling it opposed. The case made it much simpler for mining companies to break ground, granting them so-called “preferred use” status to dig unless the local government could prove the development would cause “very serious consequences.” The pendulum began to swing back in 2010, when the Supreme Court restored municipal rights with its *Kyser v. Kasson Township* decision, but the victory for local residents was short-lived.

In 2011, Public Act 113—a gravel industry-backed bill amending the state's Zoning Enabling Act—essentially reset the playing field in line with the Court's previous *Silva* ruling, dramatically limiting local governments' ability to limit even the most dangerous mining operations. Soon after, Levy launched its attempt to dig near the Metamora EPA Superfund clean-up site but has been stopped at every turn by local decision makers, community leaders, and the courts.

During the Lame Duck legislative session at the end of 2018, Levy attempted to ram through the Legislature a preemption law aimed at Metamora, but even that attempt was shot down by tenacious local advocates and stopped by lawmakers who listened to the concerns of locals.

Renewed Push for Power

Early last year, with a new governor, a new Legislature, and a new two-year legislative cycle in front of them, Levy and the MAA began their latest takeover attempt. The industry amassed lobbyists, PR teams, and strategists to draft and guide SB 431 through the Legislature.



It's an approach that hasn't been absent scandal. Late last year, the *Detroit Free Press* published an explosive expose detailing very serious concerns over the validity of a key study regularly cited by MAA, and very serious ethical concerns over the way the study's authors were selected and the study itself drafted.

The details outlined in the *Free Press* indicated that MAA selected the study's author and all but drafted its findings before the study even began.

The paper published emails obtained via a Freedom of Information Act request quoting an MDOT concrete operations and material engineer who raised repeated alarms with his superiors.

"The MAA approach is simply to use a hastily assembled report (to be commissioned by MDOT) to engage in legislation that takes permitting authority away from local agencies so that the current aggregate producers... can expand their current footprint via hostile land grab."

The *Free Press'* blistering report sent shockwaves through Lansing. Government watchdogs and lawmakers launched formal investigations into the circumstances surrounding the

study, MDOT, MAA, and their links to legislative end runs around local control. Both the Transportation Commission and the state's Auditor General found that MAA corrupted the state contracting process to produce a flawed study to justify their self-interest and an unnecessary legislative attack on Metamora Township.

Still, mining advocates have refused to give up the fight.

"Local families in Metamora will fight every step of the way for our small community's environment and its future," said Dzenowagis. "If Levy and the company's allies successfully outlaw local control over mining, it'll have created a roadmap for every other interest and industry to make an end run around municipal governments."

Metamora is in a battle for the future of so much more than a single mine. It's a fight for the future of local control in Michigan. 

Nick De Leeuw is vice president at Resch Strategies, a public affairs firm in Lansing working with the residents of Metamora, MI. You may contact him at nick@reschstrategies.com.



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“...the coordination between Lansing and East Lansing has created a thoughtful and logical regulatory system that’s less confusing to users and better for the cities’ relationships with scooter companies.”

SMART LOCAL CONTROL

Smoothing the Regulation Road for Electric Scooters

By Shanna Draheim and Peter Spadafore

Photos courtesy of Lime.





You've probably seen them somewhere—on the streets of your own city or maybe someplace you've visited recently. Dockless electric scooters. Since they hit the scene a few years ago, they've popped up in most major cities and college towns around the country. Companies like Lime, Bird, and Spin have created a micro mobility trend, and people are zipping along streets, bike lanes, and sometimes sidewalks on their way to work and other places on these shared mini vehicles.

The simplicity and flexibility that dockless scooters offer make them very appealing to users. You just use your phone app to find an available one, log on, ride to where you're going, and then park it (safely please!) at your destination. Learning to ride one is easy, and devotees will tell you they are a great way to cover distances that feel a little too long to walk but too short to drive. They have become an important part of "first and last mile" transportation for regular transit users as well.

These benefits are what is spurring a boom in scooter use in many cities. The National Association of City Transportation Officials' 2019 study on micro mobility found that dockless scooters have now overtaken station-based bicycles as the most popular form of shared transportation outside transit and cars in the U.S., with almost 40 million trips in 2018.

But the dockless scooter phenomenon has not been without problems. Several of the companies have taken a "deploy first, ask forgiveness later" approach and dropped fleets of scooters on city sidewalks with no notice to communities. And people have raised legitimate issues with scooters blocking sidewalks and accessibility ramps, causing problems for people with mobility impairments, and creating disarray in public spaces.

As a result, cities have begun using their authority to regulate and manage the use of scooters in their communities. Some of these rules have been very stringent, going as far as forbidding the deployment of dockless scooters altogether.

Syncing Scooter Regs

The cities of Lansing and East Lansing took a different approach. Both communities recognized the benefits of scooters and wanted to ensure they had a place in the region's comprehensive transportation vision. But they also wanted some sensible rules to mitigate the potential negative impacts of shared scooters. Just as importantly, they wanted a consistent approach to regulating scooters in the region, recognizing that people riding them regularly cross the invisible borders between the two cities—the scooter companies wanted this, as well.

The two cities, with input from Lime and Bird (the two companies that had initially deployed scooters in the region), worked to establish similar ordinances for business operating agreements and safe operating rules. The communities established identical license fees (\$2,500 per year) and agreed that revenues generated should be used for non-auto transportation infrastructure in their cities. In addition, they set similar speed limits for non-downtown areas, and both included data sharing and education requirements in companies' permit applications. This enables consistent messaging in marketing and education materials throughout the region, something the cities knew would help improve rider and pedestrian safety.

The coordinated approach was hailed by the scooter companies as more efficient and productive. Even though they are paying higher fees than they originally requested, they appreciated the clarity of the regulation and the consistency across close borders.

Smart Local Control

The scooter rage is still new in this region and all the kinks associated with this form of transportation are far from worked out. But the coordination between Lansing and East Lansing has created a thoughtful and logical regulatory system that's less confusing to users and better for the cities' relationships with scooter companies. It is a model for smart local control. As a next step, the cities are hoping that Michigan State University (which is part of East Lansing) will work with the communities to help match its approach to regulating scooter use on campus. An even broader, more consistent approach across the region will only help improve the safety, transportation opportunities, and management of multiple forms of micro-mobility across communities. 

Shanna Draheim is the director of policy research labs for the League and a former East Lansing councilmember. You may contact her at 517.908.0307 or sdraheim@mml.org.

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MESSAGE ORDINANCES

How the Massage Industry and Cities Can Achieve Mutually Beneficial Regulation

By James Specker

Conversations about how to regulate massage businesses are increasing across the country because criminal activity is taking place under the guise of massage and often as a front for illegal sex work and human trafficking. Communities are using their authority and working hard to curb illegal prostitution and prevent human trafficking. The American Massage Therapy Association (AMTA) and our membership are seeking to proactively partner with communities in these efforts. We believe that unlicensed people who pretend to operate massage businesses, but offer illegal services, make it harder for the hundreds of thousands of state licensed massage therapists to provide valuable healthcare services to their community and grow their small businesses.

While we understand why communities implement a local zoning requirement to stop illicit activity, too often licensed massage therapists are swept up in the reforms. Depending on how a local ordinance is written, they may, unintentionally, close or restrict local legitimate small businesses. AMTA is working to partner with law enforcement, local communities, and other national and local organizations to help provide a framework for how cities can prevent illegal activity and still allow legitimate massage businesses to thrive. It is important that municipalities recognize that massage therapy is a healthcare service and licensed massage therapists are healthcare professionals.

A Balanced Approach to Regulation

AMTA advocates that each local ordinance includes a preamble or statement of purpose of the regulation, as well as an accompanying definition section mirroring respective state law. These two items act in concert to ensure that local communities are working toward a specific goal and there is no difference in terminology between the local ordinance and state law. AMTA also recommends that the ordinance spell out who within a community is tasked with issuing, enforcing, and revoking local approval.

Perhaps the two most critical requirements for stopping illicit activity posing as massage are requiring that all massage businesses 1) provide proof of their current professional licenses issued by the state; and 2) demonstrate proof of liability insurance for both the establishment and the therapists. These requirements, when verified, help to determine who is a professional, licensed massage therapist. The State of Michigan also requires a criminal background check as part of the massage therapist licensing process. Most of the people who engage in illicit activity are not licensed by the state and are not employing licensed massage therapists.

Additionally, we advocate that communities view massage therapists licensed through the state in the public health code similarly to other health professions (e.g., physical therapists, chiropractors, or occupational therapists). Too many times we see communities try to regulate massage businesses as



adult entertainment. If communities attempt to regulate this industry as adult entertainment, they are seeking to regulate illegal activity instead of banishing such activity. Requiring dress codes for massage therapists similar to strip clubs, or mandating health screenings for STIs, sends the message that illegal activity is permissible under certain circumstances. Licensed massage therapists are healthcare professionals who wear appropriate clothing, provide a legitimate, therapeutic health service, and live and work in our communities. Therapists must be treated as working healthcare professionals.

We also strive to ensure that requirements don't create a barrier to entry. Some communities have tried to allow massage services only at locations with full locker rooms available for both sexes. Requiring outrageous annual fees or unreasonable restrictions on the hours of operation a therapist can practice does nothing to prevent those who will ignore the requirements anyway. These types of regulations only close those businesses which obey the rules and comply with state and local requirements.

Best Practices

AMTA understands each community is different and their needs will vary. We have successfully collaborated with communities across the country to support fair and reasonable inspection requirements for public protection and sanitation, language related to the use of a solo practitioner's residence as their place of business, record keeping requirements, and a whole host of other potentially workable solutions to unique problems.

“AMTA is working to partner with law enforcement, local communities, and other national and local organizations to help provide a framework for how cities can prevent illegal activity and still allow legitimate massage businesses to thrive.”



Ultimately, we believe the best method to approach a local ordinance related to massage businesses comes down to three things:

1. Require and verify a copy of the state professional license and proof of liability insurance
2. Treat licensed massage therapists like any other healthcare professional and ensure the ordinance reads as such
3. Ensure that any local requirement focuses on illicit activity and does not present a barrier to entry for local small businesses

AMTA remains committed to working with any community on best practices, ways to prevent illegal activity, and how to help attract licensed massage therapists to open businesses in their communities. Massage therapists practice in a variety of settings (e.g. private practice, spas, clinics, and hospitals) and focus on improving the health and well-being of their clients/patients. They are at the forefront of efforts to provide pain relief and pain management and should not see their practices negatively affected by those who co-op the use of the word massage for illicit purposes. 

James Specker is the director of government and industry relations for the American Massage Therapy Association. You may contact him at 847.905.1429 or jspecker@amtamassage.org.

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LOCAL GOVERNMENT LEADS THE WAY ON ELECTRIC VEHICLES

By Andrew Light



The long-standing uncertainty around electric vehicles (EVs) has finally ended as EV uptake has escalated rapidly in the past few years. Now, we have to figure out the “how” rather than the “if”. How do we guarantee the appropriate infrastructure is available for EV use in Michigan? Michigan’s cities and villages have the ability and the responsibility to prepare for this demand through incentives, regulations, and leadership.

The Need for Local Action

One of the primary reservations that consumers have about purchasing an electric vehicle is that they won’t be able to find a place to plug it in. This concern is not unfounded, as many reports identify the need for more charging stations around the state to account for the growing rate of EV purchases. One such report is the Michigan Energy Office’s study of how many charging stations are needed along Michigan’s highways by 2030 to provide for “worry-free” driving.

Local officials, too, think that there is a need for more EV charging infrastructure. In Fall 2019, the University of Michigan’s Center for Local, State, and Urban Policy (CLOSUP) administered a survey funded by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to local government leaders across the state. The survey found that more than 40 percent of city and village leaders felt that their jurisdiction had too few publicly accessible charging stations.

The survey also found that over 60 percent of cities and villages have not yet given any consideration to how their local government’s policies or practices can facilitate EV infrastructure. These two statistics show there is a lot of room for improvement at the local level, especially as EV use continues to grow in Michigan. Local governments can help encourage the development of EV infrastructure in three key ways:

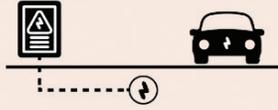
1. Incorporating EVs into their ordinances, especially their zoning ordinance
2. Conducting educational outreach programs
3. Leading by example by developing EV infrastructure at public facilities

1. EV-Capable

Install electrical panel capacity with a dedicated branch circuit and a continuous raceway from the panel to the future EV parking spot.

[Aspen, CO: 3% of parking is EV-Capable \(IBC\)](#)

[Atlanta, GA: 20% is EV-Capable \(Ordinance\)](#)



2. EVSE-Ready Outlet

Install electrical panel capacity and raceway with conduit to terminate in a junction box or 240-volt charging outlet (typical clothing dryer outlet).

[Boulder, CO: 10% of parking is EV-Ready Outlet](#)



3. EVSE-Installed

Install a minimum number of Level 2 EV charging stations.

[Palo Alto, CA: 5-10% of parking is EV-Installed](#)



with EV chargers. Other municipalities use regulations to require EV infrastructure. The City of Grand Rapids, for example, requires that all parking lots and structures provide space for one charging station for every 200 parking spots.

These both represent a positive step toward local consideration of EV infrastructure, but neither ensure a sufficient number of spaces to meet the rapidly growing demand. The parking garages being built today will likely last 25-50 years, but many ordinances in Michigan consider only near-term EV needs rather than longer-term needs.

Education and Outreach

In communities that don't want to force the issue by requiring developers to include EV infrastructure, another role they can play is in educating people about the cost and benefits of EV infrastructure.

A recent study out of San Francisco finds that it costs 1.7-2.3 times as much to retrofit a parking space with an EV charger than to plan for it when the parking is originally being constructed. At the same time, installing a charger does add costs to new construction compared to traditional, non-charging parking spaces.

Incorporating EVs into Ordinances

A local government can implement ordinances that incentivize or require businesses and homes to accommodate EV infrastructure. A handful of municipalities have already taken different actions to incorporate EV infrastructure into their zoning ordinance. Some of these ordinances use incentives to encourage EV infrastructure. For example, the City of Ypsilanti has an incentive that reduces a business' required number of off-street parking spaces if some of those spaces are equipped

ELECTRIC CAR CHARGING



AVAILABLE HERE

“...it demonstrates that the municipality is committed to sustainability, taking actions to begin a transition away from fossil fuels.”

The addition of infrastructure does not need to occur all at once, though. For example, property owners can save money in the long-term by putting electrical conduit in place when the parking is constructed, but not the actual EV chargers until they are needed. Figure 2, drawn from a current proposal in the City of Ann Arbor to add EV charging requirements to the zoning ordinance, shows three different levels of EV-readiness. Even if a local government is hesitant to regulate EV infrastructure, providing this information about EVs to developers can be helpful.

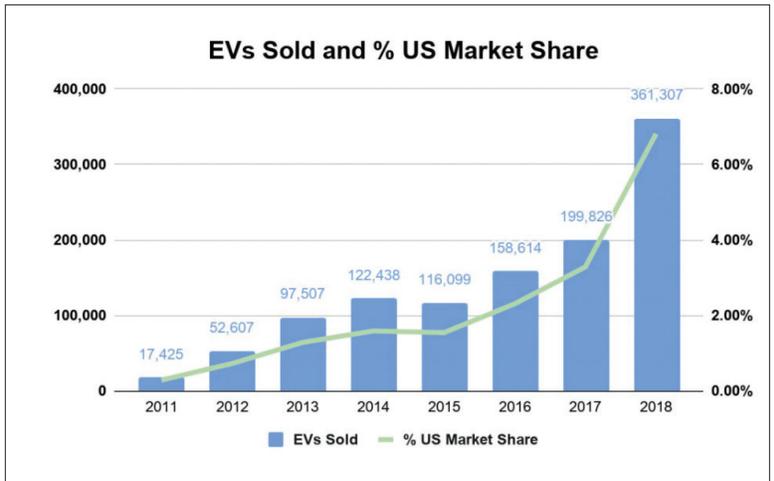
Local governments can also play a role in helping to educate their communities about rebates and incentives aiming to encourage EV use. In Michigan, both Consumers Energy and DTE have programs to help reduce the costs to install an EV charger, and the federal government offers tax incentives on the purchase of EVs. This education, outreach, and communication can help to lower the perceived barriers for communities to take action.

Leading by Example

Additionally, governments can show leadership on EVs through the choices they make with their own municipal infrastructure and vehicle purchases. An analysis of the municipality's fleet (police cars, service vehicles, etc.) and buildings (public parking, city hall, etc.) can help identify which vehicles can be replaced by electric vehicles and which locations can be fitted with charging stations. This analysis often includes looking at the types of vehicles available, and which municipal buildings have adequate power supplies to handle the additional load created by an EV charger.

There are many benefits to a city or village going through the process of installing an EV charger. First, it provides communities with a tangible example of how EV chargers can be incorporated into the existing built environment. Second, it provides municipal staff with real-world experience to draw from to answer questions and be in a better position to conduct education and outreach about EVs. Finally, it demonstrates that the municipality is committed to sustainability, taking actions to begin a transition away from fossil fuels. 

Andrew Light is a research assistant at the University of Michigan's Graham Sustainability Institute. You may contact him at 734.764.3746 or lightand@umich.edu.



The dramatic increase in electric vehicles sold shows that communities need to prepare for them.

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Revenue Trends for Michigan's Cities

By Anthony Minghine



For the past few years, the League's SaveMICity effort has been educating legislators, the public, business leaders, and other influencers about the plight of Michigan's communities. Most recently, the League commissioned a report by Public Sector Consultants entitled *City Revenue Snapshot: Revenue Trends of Michigan Cities 2002-2017*. Catchy title aside, this report helps give a further glimpse into the challenges being faced by local government. As you might expect, the report further validates the disinvestment in local government which is stressing our ability to provide the services needed to attract and retain talent in Michigan.

Michigan's communities have struggled to make critical investments in infrastructure and services that we all know are needed. Our funding model lacks the most basic tenets needed to effectively manage and grow our state. Our current system for funding our communities does not track with the broader economy and the report highlights that reality. Even though we have been in a boom economy overall, it does not translate into better times for local government.

This report is derived from Michigan Department of Treasury data they collect each year in the form of the *F-65, Annual Local Unit Fiscal Report*. All cities, villages, townships, and counties are required by the State to provide annual financial reporting via *F65*, but the PSC report is focused on 225 cities for which the state had solid data for both years.

Precipitous Funding Declines

The findings were astounding, but not surprising. Total general fund revenue on an inflation-adjusted basis has declined 11.9 percent from 2002 to 2017. The drop in property tax revenue was the single largest decline in total dollars, with a loss of \$209.7 million, a decline of 15 percent since 2002. State revenue sharing saw the biggest percentage change with an inflation-adjusted decline of over 37 percent.

In addition to the raw declines we saw in many areas, the distribution of total revenue also shifted between 2002 and 2017. While property tax has dropped as a percentage of total revenue from 49.5 percent to 47.8 percent, it remained the single largest source of local revenue. Revenue sharing, however, declined much more significantly as a percentage of total revenues. During that same period, it dropped from 19.6 percent to 13.9 percent. The reality that the system for funding local government is broken is irrefutable. This report is yet another in a long line of data-driven analyses that highlights our disinvestment.

Amazingly, nearly 73 percent of cities experienced overall revenue declines, and over 98 percent have seen reductions in state revenue sharing. Compound that with the fact that 65.6 percent of cities have seen a decline in property taxes and you begin to understand our challenges. While other local revenue increased in total, only 44.9 percent of cities experienced increases. Increases in charges for services were more common, with 61.9 percent of cities seeing increases. The variation among cities in these individual revenue categories points to a more nuanced picture, but state revenue sharing stands out as the most consistent data point across the state.

Save MI City



In short, we have not recovered from the last recession, and many are fearful of the potential for the next recession. The overall decline and change in city revenue sources have been significant since 2002. Declines in total revenues, property tax, and state revenue sharing are particularly dramatic when adjusting for inflationary increases. Revenue has simply not kept pace with inflation. This analysis reaffirms what individual communities have identified as a primary challenge following the Great Recession—trying to grow revenue to keep pace with inflation and address the multitude of short- and long-term financial needs.

Where is the Road to Improvement?

Much of the reduction in tax revenue stems from the interactions of the Headlee amendment and Proposal A. It is time for us to take real steps toward reforming Proposal A and Headlee to restore the upward and downward mobility that once existed, as well as correcting how we calculate Headlee millage reduction fractions in a post Proposal A world. This would significantly help recession proof local governments without implementing new taxes. We must also take meaningful steps to restore revenue sharing. By failing to act, the state is continuing to compound on years of disinvestment. We realize that these are tough choices and the needs of the state are plenty. We must recognize that the common denominator to good schools, good roads, safe water, talent attraction, and great services are strong communities. Without that, investments in anything else is an exercise in futility. 

Anthony Minghine is the deputy executive director and COO for the League. You may contact him at 734.669.6360 or aminghine@mml.org.

Use Our Revenue Lookup Tool

We encourage Michigan Municipal League members to use our new revenue sharing snapshot lookup tool available at savemicity.org/revenue-snapshot. This snapshot is part of the new PSC report showing revenue differences for 225 Michigan cities comparing 2002 to 2017. Share your numbers with your local media and join the growing list of news headlines about this topic:

CADILLAC NEWS “Loss of revenue sharing dollars impacting state, local municipalities”

GRAND RAPIDS BUSINESS JOURNAL “Cities not benefitting from recession recover”

WLNS TV LANSING “Study: MI cities have 12 percent less revenue than 15 years ago”

MICHIGAN PUBLIC RADIO “Revenue is shrinking for Michigan municipalities”

MLIVE.COM “As Michigan real estate values rebound, property tax revenues continue to lag”

DETROIT NEWS “Property tax hole spurs Proposal A reform push”

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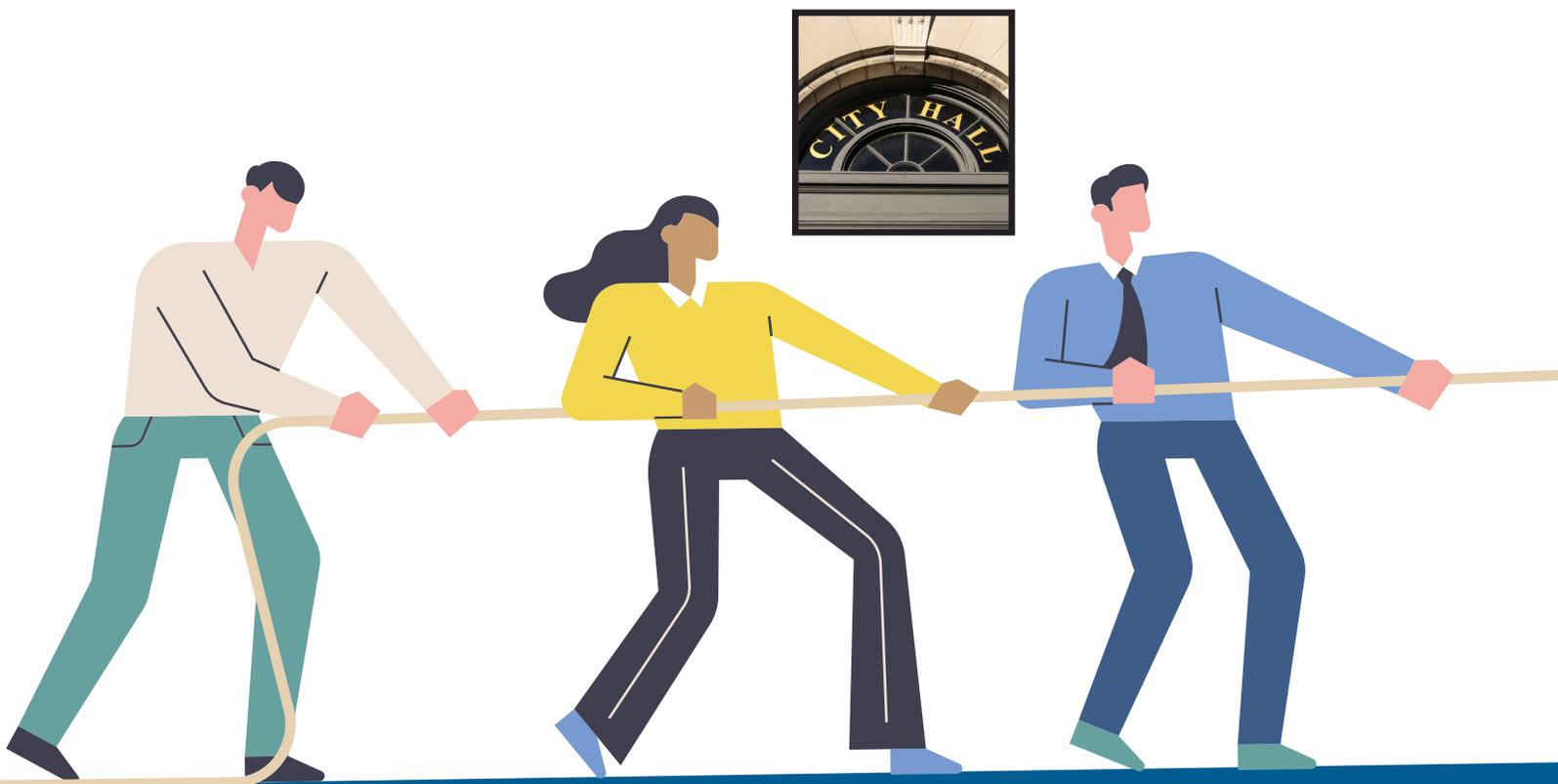
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Rethinking Home Rule in

By Nestor M. Davidson and Kim Haddow

LOCAL vs. STATE POWER STRUGGLE



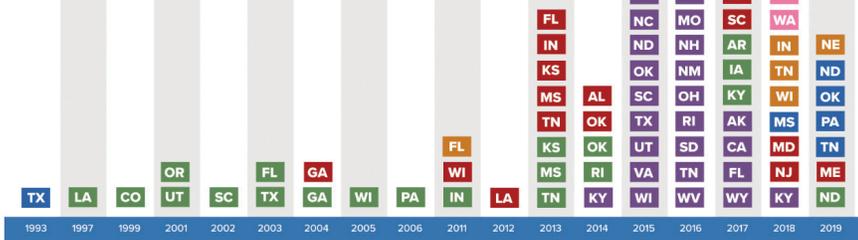
Michigan—and Beyond

Does home rule matter? For the people of Michigan and local government officials facing the daunting task of solving the state’s most pressing problems, the answer is surely yes. But is Michigan’s home rule—the legal structure that shapes how local governments can act and how much power the state has to interfere with local decision-making—up to the task of today’s challenges? Right now, the answer is simply no.



Passage of State Legislation Preempting Local Laws About:

- Gig Economy
- Paid Leave
- Minimum Wage
- Single-Use Plastic Bags
- Soda Taxes
- Short-Term Rentals
- Fair Scheduling



The Expanding Power of State Government

And Michigan’s approach to local-government finance is among the most restrictive in the nation. In terms of resources, the state cut revenue sharing to local governments more than any other state between 2002 and 2012 according to research done by Michigan State University. Michigan’s constitution also places severe caps on local government’s ability to raise funds locally.

At the same time, Michigan is empowered to displace local elected officials entirely (not to mention end local labor contracts, sell local assets, and take other extraordinary steps) through the most sweeping provision for emergency managers in the nation, as Tom Ivacko, associate director of the University of Michigan’s Center for Local, State and Urban Policy has argued. Michigan’s takeover of Flint and culpability in the Flint water crisis vividly demonstrate how state interference in local government can go disastrously wrong.

According to the 2017 Michigan Public Policy Survey, a biannual poll of Michigan’s 1,856 local governments, while local leaders recognize that there are areas such as civil rights where it is appropriate to set statewide baselines, 70 percent of Michigan’s local government officials believe that the state government is taking too much decision-making authority away from Michigan’s cities, towns, villages, and counties. That finding is hardly surprising. Since 2011, state interference with local authority has increased significantly.

Michigan now bans local government action on a broad range of policy issues including minimum wage, guns, short-term rentals, ridesharing, soda taxes and plastic shopping bags. In fact, Michigan has been one of the most aggressive states acting to limit local lawmaking. In 2015, the Michigan Legislature passed what has come to be known as the “Death Star bill”—officially H.B. 4052, the Local Government Labor Regulatory Limitation Act—barring local governments from “adopting, enforcing or administering local laws or policies concerning employee background checks, minimum wage, fringe benefits, paid or unpaid leave, work stoppages, fair scheduling, apprenticeships, or remedies for workplace disputes.” In essence, the act stripped local governments of nearly all power to protect employees.

A Nationwide Problem

One would think that home rule in Michigan, with a proud history going all the way back to the state constitution of 1908 and strengthened in the state’s constitutional reforms of 1963, would protect local decision-making from state interference. But Michigan’s constitution, as in many other states, does not guarantee local self-government, retaining broad state legislative powers to displace local democracy.

Characteristics of “New” Preemption

Sweeping state laws that at times punitively bar local efforts to address problems

Often propelled by trade associations / biz lobby to prevent any regulation at all

Targeting core local government functions

Death Star Regulation / Blanket Deregulation

Punishments for Cities & Elected Officials



Preemption is used to overturn ballot elections



Together, moving toward a form of home rule centered around these principles would be an important step in aligning the role that cities and other local governments now play with the state legal structure that governs them. Since well before Michigan's embrace of home rule in 1908, states have taken steps over generations to make sure that the law of home rule matches the felt necessity of local power. We are now at another one of those periodic junctures where the need for change is urgent and Michigan has the opportunity to be a national leader in rethinking—and actually reforming—home rule. 

Michigan is not alone in facing a troubling breakdown of home rule. Across the country over the last decade there has been a significant increase in state interference keeping cities from acting across a broad range of policy issues, from public health and safety to the effects of climate change to economic and racial inequity. Each new state legislative session—in Michigan and in other states across the country—brings new constraints on the ability of local governments to meet the needs and express the values of their communities.

Finding an Equitable Solution

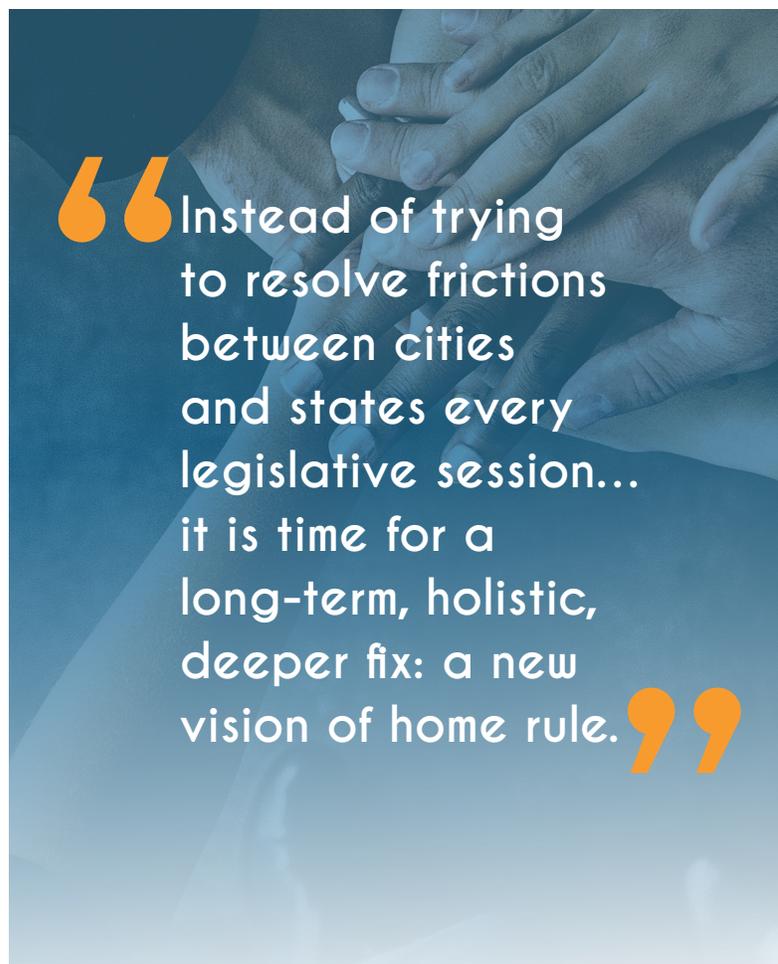
Instead of trying to resolve frictions between cities and states every legislative session in Michigan and other states in a fruitless tussle of issue after issue conflicts, it is time for a long-term, holistic, deeper fix: a new vision of home rule. This past February, the National League of Cities published the groundbreaking *Principles of Home Rule for the Twenty-First Century*, articulating a set of values to rebalance state and local relations and providing model constitutional language to encourage law reform.

The principles center on several fundamental propositions. First, home rule must reaffirm that local governments have the full range of policymaking authority necessary to solve the challenges they face. Home rule must particularly ensure local fiscal authority, as local policy discretion is hollow without sufficient resources. Indeed, rather than impose unreasonable burdens on local governments, the state should take responsibility for making sure that every local government has the capacity it needs.

These commitments to local policy discretion and fiscal capacity, in turn, require rethinking when and how states displace local democracy. There may be important reasons for states to interfere with local governance, but states should be prepared to articulate—and defend—those reasons, setting a high bar for preemption. And throughout, contemporary home rule must provide the greatest protection to the core of local democracy, namely the choices communities make in how they structure and exercise their governance.

Nestor M. Davidson is the Albert A. Walsh Chair in Real Estate Land Use and Property Law and Faculty Director of the Urban Law Center at Fordham University. You may contact him at 212.636.6195 or ndavidson@law.fordham.edu.

Kim Haddow is the director of the Local Solutions Support Center, an organization formed to coordinate and create opportunities to counter preemption that hurts local democracies and communities. You may contact her at kimshaddow@gmail.com.



“Instead of trying to resolve frictions between cities and states every legislative session... it is time for a long-term, holistic, deeper fix: a new vision of home rule.”

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How Placemaking Turned Us into *House Hunters* in Flint

by Matt Bach



FLINT
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Making places great can happen in a variety of ways. In the City of Flint, it seems to be happening in just about every way possible. The amazing placemaking work happening in Flint is a key reason my wife, Katie, and I moved to Flint and why we applied to have our search for a Flint home featured on a future episode of HGTV's *House Hunters* show (airing soon).

A new downtown hotel, new and updated parks, dozens of renovated buildings, and positive economic, cultural, and social changes and activities are just some of the fantastic placemaking work happening in Flint. Place matters and it leads to economic growth, job creation, and in our case, new residents.

Bringing Placemaking to Life

The Michigan Municipal League has long supported the concept of placemaking, which in the simplest terms is creating places or spaces that attract people. The League has published two books about it—“*The Economics of Place: The Value of Building Communities Around People*” and “*The Economics of Place: The Art of Building Great Communities*.” And we have a website devoted to it: placemaking.mml.org. We also are an active supporter of the Michigan Economic Development Corporation’s Public Spaces Community Places crowdfunding program, which has successfully funded nearly 600 placemaking projects throughout Michigan, including multiple efforts in Flint.

Flint understands that placemaking is a community and economic development strategy that aims to capitalize on local assets to create appealing and unique places where people want to live, work, do business, and enjoy. The League and other proponents of place-based economic development believe that by creating vibrant downtowns, neighborhoods, and public spaces and improving a community’s quality of life, talented workers will be drawn to move there, and they will attract new businesses as well as start their own.

All the positive changes in Flint can be attributed to local leaders embracing the placemaking concept—from the new murals throughout the city, to the newly restored Capital Theatre, to Brush Park’s “FLINT” sign where residents and visitors enjoy taking photos to show their Flint pride, to the former Genesee County Savings Bank being turned into a hotel. The League actively supports the idea of placemaking and we encourage our communities to have and create spaces and amenities that attract people and businesses—just like Flint is doing.

Setting an Example

In fact, the success of placemaking in Flint can serve as an example for all communities throughout Michigan. The Flint Farmers’ Market, for example, not only draws people, but is a model that communities throughout the nation and world can emulate. The turnaround in Flint can also serve as an inspirational example of how to reverse course for a community.

Making the Move

The positive energy and revival happening in Flint is a key reason why my wife, Katie, and I moved to Flint. We spent many years working in downtown Flint—first while I was a reporter and Katie was an editor at *The Flint Journal*. We then each spent time working for the Flint Area Convention and Visitors Bureau helping promote Flint. Over our many years in Flint and Genesee County, we’ve seen first-hand the amazing transformation happening due to the city and its supporters embracing the placemaking concept.

We want others to know how incredible Flint is so that maybe they, too, will invest in the city. That’s why we decided to have our journey to find a home in Flint featured on *House Hunters*. We can’t say much more about it until the show airs (hopefully soon) but suffice it to say we were very proud to spread the word about Flint.

We love what Flint is, what it represents, and where it’s heading. And we want to be part of this positive future. We hope to inspire others to love Flint as much as we do. Just maybe, they’ll invest in Flint or some other Michigan city, too. 

Matt Bach is director of communications for the League and a former reporter at The Flint Journal. His wife, Katie, is director of communications at the Michigan State Housing Development Authority and a former news editor at The Flint Journal. They are new Flint residents, having purchased a home in the city in late 2019. Their journey to buy a home in Flint will be featured on a future episode of HGTV’s House Hunters.



Katie and Matt Bach with the HGTV camera crew.

“The positive energy and revival happening in Flint is a key reason why my wife, Katie, and I moved to Flint.”



Restored downtown theatre



New boutique hotel



New murals throughout the city

The Law Firm For MUNICIPALITIES

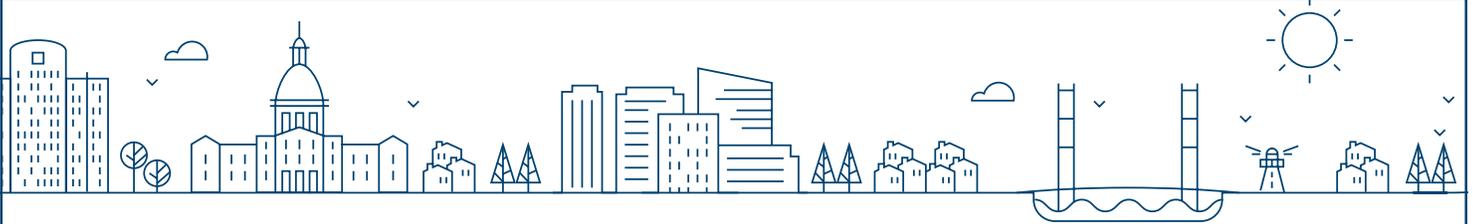
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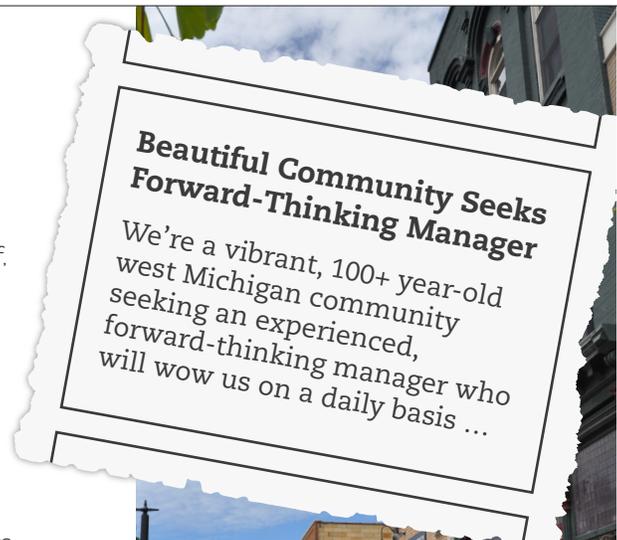
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For more information please contact Mandy Reed at mreed@mml.org

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Sue Jeffers is a legal consultant to the League. You may contact her at sjeffers1@me.com.

Nestlé Denied Permit to Construct Booster Pump Building on Pipeline

FACTS:

Nestlé Waters North America, Inc. applied for a permit to construct a booster-pump building on a pipeline in Osceola County. Nestlé operates a well house at White Pine Springs and transports the water to a load station in Evert. The well pumps water from the ground for commercial production and sale of bottled drinking water. The pipeline runs, in part, across real property owned by Spring Hill Camps, which consented to allow Nestlé to build the booster-pump building on its property.

Nestlé requested approval under the township's Zoning Ordinance to construct the booster-pump building. Its Planning Commission found that the booster-pump building complied with all standards applicable to special land uses. The Planning Commission, however, denied the zoning request finding that even though it was an "essential service," it failed to meet the "public convenience and necessity" standard. (Essential public services are basically exempted from many of the provisions of the Zoning Ordinance.) On appeal, the vote of the Zoning Board of Appeals (ZBA) ended in a tie which resulted in the Planning Commission's decision being upheld.

The circuit court reversed the ZBA decision, reasoning that water was essential and that the plaintiff's commercial bottling operation supplied a public demand therefore resulting in the booster-pump facility being an "essential public service."

QUESTION:

Is the booster-pump facility an "essential public service" under the Osceola Township Zoning Ordinance?

ANSWER:

The Court of Appeals held that the circuit court's decision that Nestlé was operating an essential public service was clearly erroneous. The Court held that even though an "essential public service" was not defined in the ordinance, "essential public services" are in the nature of utilities or services provided by a public entity and generally necessary for inhabitants of a particular geographic locality to live in reasonable comfort. The Court noted that even though water may be deemed essential, the provision of water in any form is not necessarily an "essential public service."

QUESTION:

Even if the booster-pump facility could be deemed in furtherance of an essential public service, is the booster-pump facility entitled to a special land-use permit?

ANSWER:

No. The Court of Appeals noted that even if the booster-pump facility could be deemed in furtherance of an essential public service, the ordinance provides that structures must not "interfere with the planned use of such district." Nestlé's booster-pump facility was not among the enumerated uses permitted by the ordinance. Nor did the Court find that it was among the enumerated uses requiring a special use permit.

QUESTION:

Does a denial of the zoning request contravene parts of the Natural Resources and Environmental Procedures Act and the Michigan Safe Drinking Water Act?

ANSWER:

No. Denying a zoning permit does not have the effect of regulating the removal of water from the ground under the NREPA. Nor is Nestlé's commercial water bottling operation a "public water supply" under the MSDWA.

Nestlé Waters North America, Inc. v Township of Osceola, No 341881, December 3, 2019.

Editor's Note: As of January 1, 2020, this is an unpublished opinion.



Where Did Michigan Communities Land in the Latest State Budget Battle?

By Rick Haglund

Democratic Gov. Gretchen Whitmer engaged in a bruising battle with the Republican-controlled Legislature while crafting her first state budget, a process that dragged on well past the Oct. 1 start of the 2020 fiscal year. But municipalities were largely spared most of the cuts the governor initially enacted and later partially restored in a pact with lawmakers.

The budget provided modest increases in crucial revenue sharing money, restored the full \$27 million for payment in lieu of taxes in state land not on the tax rolls, added \$15 million for toxic PFAS cleanup, \$10 million for Census-related activities, and an additional \$13 million for road repairs. In total, about half of the \$1 billion in cuts Whitmer enacted in the budget dispute with the Legislature were reversed in an agreement reached on Dec. 10.

“Most everything we needed to be made whole has been done. Sometimes that’s a win,” said Battle Creek City Manager Rebecca Fleury. “We’re grateful that the budget items that affected us stayed at the proposed level.” Chief among those items is state revenue sharing, which has been repeatedly slashed over the past two decades. Since 2002, state government has diverted \$8.6 billion in revenue sharing from local units of government to its own budget, according to the Michigan Municipal League.

Cities, villages, and townships are getting about \$1.13 billion in combined constitutional and statutory revenue sharing payments in the current budget, which runs through Sept. 30. That’s up just \$20.2 million from fiscal 2019, or 1.8 percent. The increase also is less than half the 3.5 percent

revenue sharing increase between fiscal 2018 and 2019, according to the House Fiscal Agency. According to the 2019 *City Revenue Snapshot* report produced by Public Sector Consultants for the Michigan Municipal League, revenue sharing is also down 37.4 percent on an inflation adjusted basis for Michigan cities between 2002 and 2017.

Fix the Damn Roads?

Whitmer attempted to include an ambitious road-funding plan to the budget, but her proposal to boost the gas tax by 45 cents a gallon to raise an additional \$2.5 billion to fix roads and bridges went nowhere in the Legislature. Whitmer and lawmakers agreed to spend just \$13 million more for bridge and road repairs this year.

The lack of a comprehensive transportation plan is a worry for strapped local governments that are trying to raise more money to fix their streets and for transit systems that are legally required to provide transit services to the disabled and elderly in a rapidly aging state. “Local governments are wondering when, if ever, road funding will get addressed,” said Eric Lupher, president of the Citizens Research Council of Michigan. Whitmer has vowed to try again this year.

Fleury said public transit is moving more to a demand-type service than on fixed routes. Serving more passengers in a demand model (think Uber) while maintaining fixed-route service is challenging for local governments. State public transit funding this year is roughly flat from a year ago.

Any New Revenue in Sight?

Municipalities also are still trying to adjust to the loss of the state personal property tax, which the state eliminated in 2014. “It was helpful for businesses, but it wasn’t for some communities,” Fleury said. While the state reimburses cities for the loss of local personal property tax revenues, there continue to be disputes about how much cities should get. “We’re five years out from the end of the PPT, but the state is still tweaking it and trying to find the right mix,” Lupher said.

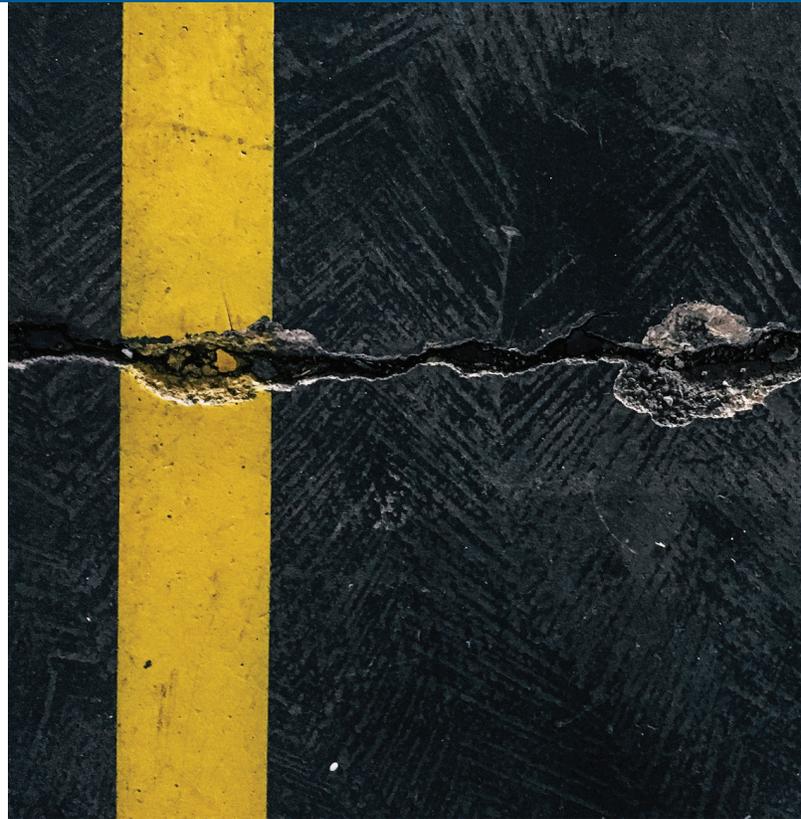
Battle Creek ran up a \$2.4 million budget deficit during fiscal 2019, entirely due to the state’s formula in reimbursing the heavily industrial city for the loss of personal property tax revenues. The gap was closed by spending cuts, an unanticipated increase in city income tax revenue, and some additional reimbursement from the state. “We came to an understanding, but we didn’t get what we wanted,” Fleury said. About 12 percent of the city’s \$48 million budget comes from revenue sharing and personal property tax reimbursement.

Overall, cities had 12 percent less revenue in 2017 than they did in 2002, adjusted for inflation, according to the *City Revenue Snapshot* report. And even though the economy is strong, it’s unlikely that cities will see big increases in funding from the state over the next several years.

That’s mostly because of an expected economic slowdown, tax cuts, and spending pressures on health care, environmental protection, and other state functions. The general fund, essentially the state’s checkbook for everything outside of school spending, is expected to be flat through next year. Adjusted for inflation, general fund revenue is down 30 percent from fiscal 2000, according to the House Fiscal Agency. “This is our new normal,” Fleury said.

Whitmer and the Legislature are now working on a fiscal 2021 budget that must be in place by Oct. 1. Last year’s budget squabbles led to an agreement in which the Legislature must submit its budget to Whitmer by July 1. But there are no repercussions if lawmakers miss the deadline. And it’s unclear whether the two sides can work together in a manner that will prioritize local government needs. “We’re on the doorstep of the next budget season,” Lupher said. “Can (Whitmer and the Legislature) play together in a nice way and get things done, or will they be at each other’s throats, which doesn’t serve anyone well?” 

Rick Haglund is a freelance writer. You may contact him at 248.761.4594 or haglund.rick@gmail.com.



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Rising Water, Rising Challenges

By Liz Foley



Traverse City's Boardman River rises to its highest level in years.

With the longest freshwater coastline in the world, it's no wonder that Michigan is reeling under the impact of rising water levels.

Weather extremes set in motion by climate change have made terms like “ordinary high-water mark” virtually meaningless and rendered shoreline protection laws obsolete and insufficient. From record low levels on lakes Michigan and Huron in 2013 to record highs in 2019, everyone—residents, scientists, engineers, and municipal leaders alike—has been scrambling to prepare and adapt to a dramatically changing coast.

In early December 2019, state lawmakers asked Gov. Gretchen Whitmer to declare a state of emergency along the Lake Michigan shoreline that could release emergency state resources to address the impacts of erosion and could allow the state to petition the federal government to do the same. Some help appears to be coming, but it could be too little too late. For the most part, Michigan's cities have been essentially lost at sea on their own, struggling to protect public infrastructure and repair the damage already wrought. The damage extends to virtually every shoreline community throughout the state.

Traverse City

In Traverse City, beach erosion has undermined the footing of a main parking lot along the western bay front. A boat ramp and boardwalks along the Boardman River downtown were partially submerged for months. Sand infilled storm drains, causing water to back up along streets and neighborhoods.

“To alleviate the situation, we have had to build a bypass by placing a pipe with a pump to forward the water a different route,” said City Manager Marty Colburn.

Downtown businesses have been impacted as well. The State Theatre, home to the world-renowned Traverse City Film Festival, suffered prolonged flooding resulting in costly mold and water damage to the historic structure's basement.

Amendments to the storm water ordinance and a new ordinance protecting shoreline trees will bolster the city's future preparedness, but more is needed. A new riparian ordinance is in the works for more stringent development guidelines along rivers and streams, and some are voicing a need for increased building setbacks along shorelines.

"It's premature to provide an accurate damage cost to public facilities as it is currently ongoing. City staff is tracking the damage and we are expecting more during the winter," said Colburn. "We currently are preparing our annual Capital Improvement Plan which will [have] some of these concerns addressed."

Marquette

The situation has been even more dramatic in Marquette, where shoreline erosion is amplified by storms that come off mighty Lake Superior.

"We have been cleaning up and doing smaller areas of rock armoring along our entire shoreline for several years now, but lately it's become more extreme. Most recently, we had to permanently close a one-mile section of one of our roads that parallels Lake Superior and fortify another half-mile of shoreline along another just so we could save that road and related infrastructure," said Marquette City Manager Mike Angeli. "Fortunately, we [had already] planned to move the one-mile section inland about 300 feet beginning next spring so we are ahead of the game there."

That project alone is estimated to cost approximately \$12 million, which includes about \$2.8 million to relocate the road and the balance going toward shoreline restoration.

"We have been successful in getting one grant for \$2.5 million and are anticipating another for \$2.7 million with a combined match of approximately \$3.5 million," said Angeli. "Our matching funds will need to come from future Capital Improvement Plan projects that will need to be either delayed or canceled altogether."

Projects pushed to the back burner include replacement of aging infrastructure like water and sewer pipes as well as curbing and new roads.

"In other words, neighborhoods that have been otherwise expecting new roads will not get them for a while yet," said Angeli.

No Relief in Sight

Michigan's water levels are at their highest in more than two decades. If levels rise an additional 12 inches or more this spring, as models predict, Spring 2020 levels could break 120-year historic records. In early February, Gov. Whitmer unveiled her budget recommendation for \$40 million for grants to go for shoreline erosion protection efforts. Even so, those funds will not be available for communities until Fiscal Year 2021—well after the spring thaw and traditionally high summer water levels. Michigan's Department of Environment, Great Lakes & Energy (EGLE) has also launched the High-Water Action Team to address coordination among involved stakeholders.

Climate scientists predict continued extremes of high and low water over the coming decades, with shoreline loss greater in some areas than others. High risk erosion areas (HREAs) are those eroding at an average rate of one foot or greater per year over at least 15 years. Currently, about 250 miles of shoreline are designated HREAs along the shorelines of lakes Michigan, Superior, and Huron, according to the Michigan Department of Environment, Great Lakes and Energy (EGLE) Shorelands Management Program. 

Liz Foley is a freelance writer. You may contact her at 810.287.8549 or lizfoley2@gmail.com.



High waters have toppled trees on Marquette's Lakeshore Blvd.

THE LAB REPORT

Ideas, initiatives, and activities from the League's Policy Research Labs

An Immersive Experience in German Sustainable Urban Development

By Melissa Milton-Pung

In early December 2019, I joined seven fellow Americans and eight Germans in touring Dusseldorf, Mannheim, and Heidelberg, Germany with the American Council on Germany's Sustainable Urban Development Study Tour. We met with U.S. diplomatic representatives, local elected and appointed officials, and regional experts on sustainable urban development.



Melissa Milton-Pung (center, in blue beret) and her fellow planners stop for a quick pic during their German tour.

The Michigan Municipal League has a tradition of connection with the American Council on Germany (ACG), a nonprofit founded in the immediate post-World War II era. Two of my colleagues took part in a similar tour in the late 1990s. Both tours were an unparalleled opportunity to confer with professionals on both sides of the Atlantic working to improve their cities and the lives of their citizens.

My 2019-2020 group was comprised of not only planners and economic development professionals, but also an attorney with brownfield redevelopment expertise; a transportation journalist; the community relations director for Uber, Germany; a landscape architect; and even a city councilperson who also serves as the chief of the local riot police. We covered more than 50 miles on foot through three cities and conducted more than 30 substantive meetings over the course of about six days. It was like drinking from a firehose while walking our way to international urban planning enlightenment.



Here are my key observations from the first half of this program:

Transatlantic Understanding Lives with Individual Connections

The implicit purpose of the ACG is to foster greater transatlantic understanding between nations. We experienced this principle firsthand while meeting with the U.S. Counsel General, the Canadian Counsel General, the Executive Leadership of the Nordrhein-Westfalen Landstadt (state parliament), and cultural diplomatic representation from the AmerikaHaus. In seeing the work of this "North American



The Dusseldorf CHP power generation and recovery plant broke three engineering world records when launched in 2016.

Friendship Group,” it was heartening to see such strong, familial working relationships and collaborative diplomacy. In a similar vein, over the course of the week, our tight-knit group quickly found that the Germans’ responses to the Americans’ questions, and vice versa, brought forth even deeper discussions about the base assumptions of each democracy and the economic cultural norms which drive government policies.

Carbon Reduction Is the Focus

Climate change is discussed in very real terms, and it directly relates to public dialogue about how German cities are taking steps to reduce carbon usage. If economic benefits can be achieved, great. But profit is not the driving goal. There are deep ideological differences between the countries in how basic land use laws are structured, and therefore, how development occurs. In Germany, like in the U.S., consumer behavior changes are tied to local/state level regulations or financial incentives. A surprise in evaluating Germany’s building systems and carbon reduction measures is that most existing buildings have already been reused and retrofitted for energy efficiency. The adaptive reuse presently being experienced by many U.S. cities was de regueur in Germany more than a few decades ago. Because those methods have been so fully integrated into the common playbook for planners, it is no longer viewed as innovative. Historic buildings viable for reuse have long ago been absorbed by the markets.



Every Day We’re Hustling

At times, it felt like we were visiting a planners’ utopia. Despite that initial strong showing, the struggle to impart best practices for city building showed through at times in the fatigue which crept into practitioners’ voices when describing plans versus realities. All in all, planners in Germany are better funded, better equipped, but not better skilled. Their problems are simply different than ours. They want to accomplish the



same kinds of dreams we forecast here in the U.S.—with a more explicit urban eye. They have the benefit of many more tools for public policy and regulation, such as a mandate that 40 percent of all new housing units fall into the workforce and affordable housing range of rent control, or the ability to build out multi-modal transit systems. But they continue to look for ways to serve a growing population.

This tour showcased dozens of urban practitioners and elected leaders seeking to accomplish many of the same goals we seek to attain here in Michigan. We covered a broad swath of topics, several of which are related to the topics being discussed currently at the League: sustainable urban development, with a heavy focus on carbon reduction measures, transit systems, housing demand, capacity and focus of public education systems, cultural integration for equity and inclusion, and data tracking for incremental improvements.

This study tour is intense and inspiring, and we’re only halfway done. I returned home delighted to be reunited with my family and colleagues, with my mind still full of tremendous experiences. I can’t wait to share the U.S. when we tour two yet-to-be-announced American cities with our German colleagues during the second half of the program in Spring 2020!

Want to apply next time around for this study tour with the American Council on Germany? For more information, visit www.acgusa.org/study-tours. 

Melissa Milton-Pung is a policy research labs program manager for the League. You may contact her at 734.669-6328 or mmiltonpung@mml.org.

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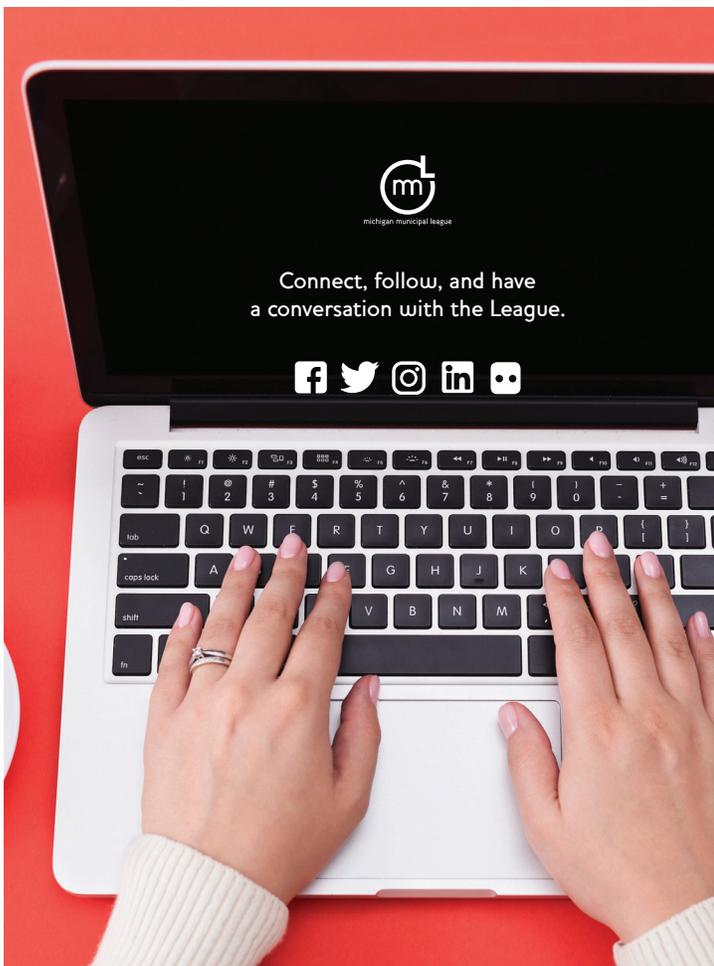
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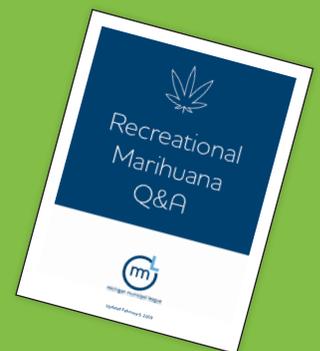
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Recreational Marihuana Q&A

Questions and answers from League training seminars and webinar.



The Q&A—plus our white paper, sample ordinances, and other resources—are available on the Marijuana in Michigan page at www.mml.org.

Q. We are a small city and would like to start a rental housing inspection program. Do you have sample ordinances from other small cities that we can look at for guidance?

A. Yes, the League does have sample rental housing inspection ordinances from other cities of all sizes. However, a word of caution: Michigan's housing law was amended in both 2015 and 2017 (effective in 2018) to reflect a concern about warrantless inspections. Prior to the 2017 change, in both state statute and case law, if a lease provided a landlord's right of entry, that right was extended to the enforcing agency, and the agency could require the landlord to provide access. The 2017 amendment changed the wording in the law to require inspecting agencies to gain the renter/lessee's consent before entering a household. Municipalities with ordinances written prior to 2017 should review them for compliance with PA 169 of 2017.

For more information on housing law changes, see our Fact Sheet: Rental Housing Inspection Law.

Q. Can our council pass a rule that says councilmembers can't text during council meetings?

A. Council rules are local rules, so yes, your council can pass this rule and add it to your council rules of procedure. We have a few examples of such a rule.

Ann Arbor:

During Council meetings, members shall not send private electronic communication to persons other than City Staff; provided however, that members may send draft motions, resolutions, and amendments to the City Clerk who will forward them to members of Council. Members shall not respond to member-distributed draft language via electronic communication. All draft language sent by electronic communication during Council meetings shall be read into the record prior to discussion by Council. Members will not send publicly accessible electronic communications (e.g. Twitter and Facebook posts) during meetings.

Electronic communication sent and received by a member during a Council meeting shall be included in the minutes of such meeting, provided that the minutes shall not include electronic communication received by a member that clearly does not relate to the subject matter of the meeting.

New Buffalo:

All communications occurring during Council meetings are potentially subject to the requirements of the Michigan Open Meetings Act. Therefore, with the exception of reasonable emergency personal communication related to safety or similar practical considerations, members of the City Council shall not engage in any form of wire communication, as defined by U.S. Code Title 18, Part I, Chapter 119, Section 2510, during any meeting of the Council, including texting or other types of messaging or receiving or transmitting e-mail. Council members may use electronic devices (laptop, tablet etc.) to conduct research related to topics being discussed as part of the adopted agenda.

Sterling Heights:

A Council member shall not engage in electronic communication with another Council member or a member of the public during a regular or special meeting. Electronic communication is defined as an email, text message, instant message, website or blog posting, or other form of communication transmitted or retrieved through the use of an electronic device.

Q. I'm newly elected to council and I've heard the term Bolt used—what does that mean, exactly?

A. Bolt refers to a 1998 case in the Michigan Supreme Court, *Bolt v City of Lansing*. A Bolt challenge by a taxpayer means the taxpayer feels that a fee is not a really a fee but a tax, and this tax is imposed without a vote of the people (in violation of Headlee). The court in the Bolt case found that a valid user fee is "exchanged for a service rendered or a benefit conferred, and some reasonable relationship exists between the amount of the fee and the value of the service or benefit." The court decided that the City of Lansing's stormwater fee was not proportionate to the necessary costs of service and that the city's ordinance and the fee served a revenue-raising purpose rather than a regulatory purpose.

For more information on Bolt, see our Fact Sheet: Bolt Refresher (includes a 2015 article from *The Review*).

Q. Where do we send our PA 152 (publicly funded healthcare contribution act) Resolutions?

A. The Resolutions should be sent to MDOT. Apparently, if they are not sent to MDOT your Act 51 money can be withheld. 

The League's Information Service provides member officials with answers to questions on a vast array of municipal topics. Call 800.653.2483 or email info@mml.org or inquiry@mml.org.

We'll Bring the Classroom to You!



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By Kim Cekola

Michigan Municipal League seminars are well known for bringing excellent presenters right to the doorstep of communities across the state. Join the ranks of these knowledge-filled students by inviting one of our presenters directly into your municipality. Our on-site educational seminars are designed with your needs in mind and packed with advantages: more economical for training a large number of people and they enhance team-building and camaraderie as peers learn together.

On-Site Trainings—Standard

Essentials of Local Government

This training consists of a customizable mix of core topics that help educate elected and appointed officials on the basic functions they will need to know in their role as a public leader. You can pick and choose from the following topics to be covered in this three-hour training: introduction to League Services; overview of basic local government; roles and responsibilities; Open Meetings Act; and Freedom of Information Act.

Parliamentary Procedure

Do your meetings run smoothly? Is your council or board debating issues until late into the night? By using parliamentary procedure, you can gain control and have more productive meetings. This basic guide to fair and orderly procedure in meetings helps keep discussions focused and helps you accomplish the business on the agenda. This session focuses on council meetings, with all the problems and interruptions that can complicate them. Quorums and types of motions will be explained

and demonstrated. Participants also learn about the basic principles and objectives of parliamentary procedure, knowledge of charters, amendments, handling motions, debate, public hearings, voting requirements, and agendas.

Everything Meetings

Geared to help public bodies conduct smooth, well-run, legal meetings, this training intertwines the rules of parliamentary procedure and the legal aspects of the Open Meetings Act. Quorums and types of motions will be explained and demonstrated.

Social Media and Your Community

Are you struggling to inform your residents about the positive things happening in your community? Social media is here to stay and it's not too late to jump on board. If you aren't using social media to inform your community, then someone else will. Is there a right and wrong way to use Facebook? What about Twitter? Should your community have a social media policy? This course will help you answer these questions and many more. You'll learn why social media is an important tool to use in your community and how to spread your message with speed and influence to new audiences while saving time and resources.

On-Site Training—Advanced

Building a High Functioning Leadership Team

This full-day workshop is designed to assist elected and appointed officials in bridging seemingly disparate roles and responsibilities to form a leadership team capable of effectively tackling the complicated goals and interests of your community.



The municipal leadership team is comprised of the elected officials, an administrator/manager, and professional department directors. Each has a unique but equally vital place in the organization. When all parts of the organization work in tandem, progress and prosperity for your citizens is an achievable outcome. Lack of understanding or respect for the diversity of functions that make a municipal organization effective, however, can lead you down the path of unmet expectations, inertia, or out-right conflict.

In this session, participants will review each member's necessary contribution to the leadership imperative; examine the roles and responsibilities of legislators and administrators; discuss the value of differing viewpoints; and learn how effective teams are developed. By the end of the day, an experienced facilitator will have assisted the members of your leadership team in developing an individualized contract to guide operating principles. This contract is designed to provide leaders with a set of mutually agreed upon standards to smooth future decision-making and form the basis of management evaluations.

The day's agenda will cover extensive ground in the building of a leadership team and will produce tangible outcomes, adding substantial value to the problem-solving process. Participants will work through the following topic areas:

- Who Are We and What Is Our Culture Today?
- The Five Stages of Team Development
- Roles & Responsibilities: Charter, Ordinances, and Tradition
- When Conflict Hurts but Differences of Opinion Help
- Problem-Solving Models
- Team Operating Guidelines
- Setting Achievable Expectations
- Holding Each Other Accountable

For more information or to schedule an on-site training in your community, contact Kristen Wozniak at kwozniak@mml.org or 734.669.6332.

Webinars

Since its founding, educating local government officials has been a part of the League's mission. As time changes and technology progresses, our methods of training have also adapted. In addition to on-site and classroom-style trainings, we also offer pre-recorded webinars. Check out our ---on-demand webinar library at mml.org.

Elected Officials Academy (EOA) Ambassador Site Visits

Are you interested in finding out more about League services or how to navigate the Elected Officials Academy? EOA ambassadors are EOA board members and Level 4 graduates who will make site visits to League member communities to present on League services and the EOA. 

Kim Cekola is a research specialist/editor at the League. You may contact her at kcekola@mml.org or 734.669.6321.



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