



Township Meetings and Facilities Under the Open Meetings Act and MDHHS Emergency Order March 5, 2021-- “Gatherings and Face Mask Order”

If holding meetings were not already complicated over the last year, they are now even more so, because there are different timelines in both the MDHHS Order and the Open Meetings Act for whether or how electronic meetings or in-person meeting may be held. This fact sheet is not intended as specific legal guidance and is provided to assist township boards in understanding what the Open Meetings Act and the MDHHS Order say at this time. Because those timelines are not coordinated, and could still change, it is important to understand that some questions of what can be done may be open to different legal interpretation. A township board should work with its attorney to determine the answers and recommendations for your specific questions.

Under the current [MDHHS Order](#) beginning March 5, and expiring April 19, 2021, some meetings may be held in-person if no more than 25 persons are present and the township can still meet the spacing/distancing requirements. **Note you cannot turn a person away from open meeting of public body per OMA, so if more than 25 persons attend, the meeting must be ended.**

MDHHS Order	March 5 to April 19: No more than 25 persons at indoor meeting <i>(Assuming you can meet indoor spacing/distancing requirements in Order. Mask-wearing is required by all members of the public body, and those attending the meeting. Note you cannot turn a person away from open meeting of public body per OMA, so if more than 25 persons attend, meeting must be ended.)</i>		April 20 ... UNKNOWN
OMA MCL 15.263a	March 18, 2020, through March 30, 2021: Allows electronic meetings for any reason (public body and public)	March 31, 2021, through Dec. 31, 2021: Individual members of public body may participate electronically in an in-person meeting if they are absent due to: <ul style="list-style-type: none"> • Military duty • Medical condition • Declaration of state or local state of emergency <ul style="list-style-type: none"> ○ A declaration of state of emergency could allow all persons, including public to participate electronically. 	Beginning Jan. 1, 2022, the ONLY option for a member to participate electronically in a meeting of a public body is a member of the public body absent due to military duty.
OMA MCL 15.263	Before April 1, 2021, in-person meetings must comply with Covid safeguards stated in OMA. <i>(MDHHS safeguards still apply during and after OMA provision expires.)</i>	After April 1, 2021, in-person meetings must comply with MDHHS Order(s). No specific end date, subject to Covid 19 pandemic emergency.	

Conducting electronic meetings (and meetings with members participating electronically):

- **Note on declaring a “local state of emergency”:** *MTA Legal Counsel do believe this could be done by a township board, however the township should talk to its own attorney for specific legal advice on this issue*
- An electronic meeting must be conducted in a manner that permits two-way communication between members and participants (*at a minimum—everyone can hear everyone else*).
- Technology may be used to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the public body and other participants to satisfy the requirement that members of the public be permitted to address the electronic meeting (*public comment period and public hearings*) and be heard by others during the electronic meeting.
- Members of a public body and the public participating electronically in a meeting are considered present and in attendance at the meeting for all purposes. (*Including voting for members of the public body participating electronically*)
- Each member of the public body attending a meeting remotely must announce at beginning of meeting they are participating remotely and, except for military absence, must identify the county, city, township, or village and state from which they are attending remotely.
- If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body must, in addition to other notices that may be required under the OMA, post advance notice of a meeting held electronically on a portion of the website that is fully accessible to the public—on either the homepage or a separate webpage dedicated to public notices for special meetings or electronic public meetings with a “prominent and conspicuous” link on the website’s homepage that clearly describes its purpose for public notification of special meetings or electronic public meetings.
 - Any scheduled meeting of a public body to be held as an electronic meeting must have notice posted at least 18 hours before the meeting begins.
 - Notice must clearly explain all of the following:
 - Why the public body is meeting electronically
 - How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically
 - How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at a meeting
 - How persons with disabilities may participate in the meeting
- If an agenda exists for an electronic meeting and the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body must make the agenda available at least two hours before the electronic meeting begins on a portion of the website that is fully accessible to the public. This “publication” of the agenda does not prohibit subsequent amendment of the agenda at the meeting.
- A public body cannot require a person to register or provide his or her name or other information, or require a person to otherwise fulfill a “condition precedent” as a condition of participating in an electronic meeting, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting. (*Log-in information may be required by the virtual meeting platform/software/service.*)
- Members of the public are excluded from participating in a closed session of a public body held electronically if that closed session complies with the act.

Michigan Department of Health and Human Services Order Requirements for Gatherings, including Meetings

[MDHHS emergency order face mask and gathering limits](#)

Under [MCL 333.2253](#), if the MDHHS director determines that control of an epidemic is necessary to protect the public health, the director by emergency order may prohibit the gathering of people for any purpose and may establish procedures to be followed during the epidemic to insure continuation of essential public health services and enforcement of health laws.

Under the MDHHS order, and consistent with [MCL 333.2261](#), violations are punishable by a misdemeanor punishable by imprisonment for not more than six months or a fine of not more than \$200, or both, and under [MCL 333.2262](#), violations of the order are also punishable by a civil fine of up to \$1,000. The order can be enforced by state and/or local law enforcement. **(Note that the Michigan State Police and MIOSHA do enforce these orders.)**

On March 2, 2021, the **Michigan Department of Health and Human Services** (MDHHS) issued MDHHS Emergency Order, "[March 5 - Gatherings and Face Mask Order](#)," effective at 12:01 a.m. on **March 5, 2021**, in effect through **April 19, 2021**, at 11:59 p.m.

- [Capacity Limits Fact Sheet](#)
- [Social Gathering Guidance](#)
- [Outdoor Seating Enclosures](#)
- [Epidemic Order FAQs](#)

Because the order and the additional resources cover not only the specific mandates of the order, but also answer many common questions, this Fact Sheet is not including the extensive excerpts that it has previously.

But the following FAQs from the Epidemic Order FAQs link above may be helpful:

Q: What does "indoors" mean for the purposes of this Order?

A: "Indoors" means a location that is fully or partially enclosed on the top and:

- fully or partially enclosed on two or more contiguous sides; or
- if fully or partially enclosed on two non-contiguous sides, any part of that space that is more than 8 feet from an open side is indoors.

Indoor spaces, therefore, include most buildings (such as barns and garages), vehicles (such as buses and trains), and temporary structures (including tents or canopies with side walls or coverings).

Tents with one side are not indoors. Tents with two opposite sides are indoors, except for the spaces within them that are within 8 feet of an open side. Tents with two adjacent sides, three sides, or four sides, are all indoors. The placement of a tent next to a wall, building, or other structure is equivalent to a side. Opening a doorway in the middle of a side does not make that side open. For more information about indoor spaces that are permitted for dining, see [Outdoor Seating Enclosures](#) guidance.

Q: What workers are still allowed or required to work in person?

A: Work should be completed remotely unless it is strictly necessary for an employee to be in person to complete their job duties. See [MDHHS's Guidance for Employers \(Nov. 6, 2020\)](#) and [MIOSHA's Emergency Rules \(Oct. 14, 2020\)](#).

MTA Note: *See the following on employee safety:*

The MDHHS issued its guidance for employers in [Keeping a Safe Workplace](#) on Nov. 6, 2020.

The Michigan Occupational Safety and Health Administration (MIOSHA) and the Workers' Disability Compensation Agency, both within the Michigan Department of Labor and Economic Opportunity have also promulgated emergency rules to clarify the safety requirements employers—including townships—must follow to protect their employees from COVID-19. Again, these are similar requirements to those previously required in EOs. Under the [MIOSHA rules](#), employers that resume in-person work must, among other things, have a written COVID-19 preparedness and response plan and provide thorough training to employees that covers, at a minimum, workplace infection-control practices, proper use of personal protection equipment, steps workers must take to notify the township of any COVID-19 symptoms or a suspected or confirmed diagnosis of COVID-19, and how to report unsafe working conditions. **A MIOSHA infographic (*sign/brief fact sheet*) on the rules is available [here](#).**

Under the [workers' compensation rules](#), first responders—including emergency medical services workers, law enforcement and fire safety personnel, among others—are presumed eligible for compensable personal injuries under the Workers' Disability Compensation Act if they are diagnosed with COVID-19, by a physician or a presumed positive test result. The rules are in effect for six months [**March 20, 2021**].

Q: Are local government offices still permitted to be open to the public?

A: Yes. *(MTA Note: The township board must have adopted a Covid 19 Preparedness Plan to open township facilities.)*

Q: Are public meetings or board meetings permitted under this Order?

A: Yes, up to 25 board members may gather for a meeting. Under [Public Act 254 of 2020](#), public meetings may be conducted virtually for any reason through March 31, 2021.

The public may also attend the meeting in person subject to all applicable masking and distancing requirements. For public attendance to be permitted beyond 25 persons, the event must be designed to ensure that every person can avoid mingling or engaging in physical contact with persons from outside their household. For example, a reception larger than 25 persons would not be permitted indoors. All meetings covered by the Open Meetings Act – whether conducted virtually or in person – must also comply with [Public Act 254 of 2020](#).

(MTA Note: Under the OMA, a person cannot be refused entry to a meeting of a public body, so if more than 25 persons show up at an in-person meeting of a public body, the meeting must be ended. Because that is not a desirable outcome, boards should still consider using the electronic meeting options available through Dec. 31, 2021—see Chart on Page 1)

Q: May religious venues host other gatherings such as a bake sale, craft fair, public lecture, or youth group?

(MTA Note: Even though this question refers to “religious venues,” we understand this to be asking whether a church may also allow other types of gatherings (not religious observances, which are allowed) to occur that are very similar to the types of activities that many townships allow to be scheduled by the public at a township hall or other facility. So, we understand this to be the answer to the question of whether a township can allow “hall rentals” under the current order.)

A: Yes. However, all activities – other than religious services – conducted in a place of worship are subject to this Order's mask requirements, gathering requirements, and capacity limits.

Indoor gatherings are permitted where no more than a total of 25 people are gathered. Outdoor gatherings are permitted where no more than 300 persons are gathered.