



## Township Facilities & Meetings re: Open Meetings Act and State/Federal Covid Provisions, June 22, 2021, through December 31, 2021

**June 22, 2021 Rescission of Emergency Orders:** Under the **June 22 MDHHS Order** all MDHHS limits on indoor and outdoor gatherings, including public meetings and other indoor gatherings at township offices and facilities (including hall rentals) were removed. Township activities are **NO LONGER** subject to any state limits on numbers of persons (other than the normal fire marshal room capacity limits) or social distancing or mask requirements. However, Covid-19 is still a health concern, and individual township boards may determine whether any restrictions will be imposed on township activities.

**Workplace Safety:** On June 18, 2021, the Michigan Occupational Safety and Health Administration (“MIOSHA”) filed new [Emergency Rules](#) removing most **state** COVID-19 workplace safety requirements. [Workplace Safety Guidance webpage](#). But **federal** guidelines to help contain the spread of COVID-19 still apply, so non-healthcare settings (township facilities and activities) should align policies with [CDC guidelines](#) and non-healthcare employers (township board for townships) should review the [federal OSHA updated guidance](#), as well. These two sets of guidelines give more information on workplace guidelines for vaccinated versus nonvaccinated persons in the workplace. And while a COVID plan coordinator is no longer required (was a state requirement), it does appear that townships still need a COVID preparedness plan.

<b>MDHHS Order</b>	<b>March 5 to March 31: No more than 25 persons at indoor meeting</b> ( <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> )		<b>June 1 through June 21: <a href="#">MDHHS Order of June 1</a> limits <b>public meetings and other indoor gatherings (including hall rentals)</b> at township offices and facilities to the general limit of the <u>greater</u> of 50% of fire marshal capacity; <b>OR</b> 30 persons/1,000 sq. ft. if unknown; <b>OR</b> 25 persons. <b>Six-foot distancing still applies.</b></b>	<b>June 22: All broad epidemic orders lifted.</b>
<b>OMA <a href="#">MCL 15.263a</a></b>	<b>March 18, 2020, through March 30, 2021:</b> Allows electronic meetings for <b>any reason</b> (public body and public)	<b>March 31, 2021, through Dec. 31, 2021:</b> <b>Individual members of public body</b> may participate electronically in an in-person meeting if they are absent due to: <ul style="list-style-type: none"> <li>• Military duty</li> <li>• Medical condition</li> <li>• Declaration of state or local state of emergency             <ul style="list-style-type: none"> <li>○ A declaration of state of emergency could allow <b>all members</b> to participate electronically.</li> </ul> </li> </ul>	<b>Beginning Jan. 1, 2022, the <b>ONLY</b> option for a <b>member</b> to participate electronically in a meeting of a public body is a <b>member of the public body absent due to military duty.</b></b>	
<b>OMA <a href="#">MCL 15.263</a></b>	<b>Before April 1, 2021,</b> in-person meetings must comply with COVID-19 safeguards stated in OMA. ( <i>MDHHS safeguards still apply during and after OMA provision expires.</i> )	<b>After April 1, 2021,</b> in-person meetings must comply with MDHHS Order(s). No specific end date, subject to COVID-19 pandemic emergency.		

## **Electronic Meeting Options March 30 through December 31, 2021**

Individual townships may choose to have public bodies meet virtually if the township or county has declared a local state of emergency. But that option is **ONLY** available through December 31, 2021. After that, no public body subject to the Open Meetings Act may have a quorum of the public body participate virtually in a meeting of that public body. Beginning January 1, 2022, the **ONLY** option for a **member** of a public body to participate electronically in a meeting of a public body is if the member is absent due to military duty.

### **Member Access to Meetings**

After March 30, 2021, and through December 31, 2021 a **member of a public body** can participate electronically in a meeting **ONLY** if that member is (a) absent due to military duty, (b) absent due to a medical condition or (c) a state or local state of emergency is declared.

This is because the **participation of a member of a public body** (township board, planning commission, zoning board of appeals, board of review, election commission, etc.) is governed by the Open Meetings Act, which requires all members of a public body to be physically present at a meeting to be able to count toward a quorum, participate in discussion, or vote, unless they meet one of the exceptions.

Starting January 1, 2022, **ONLY a member of a public body absent due to military duty** will be able to participate electronically, including counting toward a quorum, participating in discussion and voting.

### **Public Access to Meetings**

The Open Meetings Act also provides that every meeting of public body must include one opportunity for public comment. And if a public body is holding a public hearing, that must be conducted as an agenda item within a properly scheduled and noticed regular or special meeting of that public body.

**The OMA prohibits turning any person away from an in-person meeting**, including turning them away to require them to use electronic access, so if a physical meeting room capacity (i.e., fire marshal room capacity or any applicable Covid-19 MDHHS Order limit) is reached, the options are to move the meeting to a larger meeting space (if any applicable MDHHS Order allows it), move outdoors or end the meeting.

But there is no limit in the OMA on providing **electronic public access**. The OMA does **not** limit the ability of **the public to participate electronically**, during a public comment period or on the record during a public hearing **IF** the public body chooses to provide electronic meeting access to the public—even now that the OMA has returned to limiting the ability of members of a public body to participate electronically.

MTA believes that **providing electronic meeting access to the public**, including participating in public comment or on the record in a public hearing, is one way to provide public access, input and transparency. Note that no law, including the OMA, currently *requires* a township public body to provide electronic meeting access to the public.

**So, if a public body does choose to provide electronic meeting access for the public, that may encourage the public to attend electronically, reducing the chances that people might put a meeting over the gathering limit.** Note that all participants must be able to hear and be heard by a member of the public participating electronically, in both the in-person and the electronic meeting spaces, so some form of microphone and speaker system must be provided in the in-person meeting space.