



Tips on Township Operations **per Gov. Whitmer's [Executive Order 2020-96](#)** *Effective May 21 through June 12, 2020*

Visit the [MTA Coronavirus Information webpage](#) for additional information and resources.

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Township Board Meetings:

The public still has limited ability to perform activities that are not necessary to sustain or protect life unless subject to an exception in [EO 2020-96](#) ("stay at home order"), and there is still no exception for the public to attend meetings of a public body.

Township boards are strongly advised to conduct necessary board business electronically, in compliance with [EO 2020-75 \(effective through June 30, 2020\)](#). The public must be provided with an option to participate in an electronic meeting of a public body, including via phone conference.

If a township board cannot meet entirely electronically, MTA Legal Counsel have advised that township board members may still meet in person in a township board meeting if necessary to sustain or protect life, to support those businesses and operations necessary to sustain or protect life, or to support resumed activities. The township board meeting that includes conducting the budget public hearing and approving the budget is a necessary function of a township preparing to enter its new fiscal year. It must be noted that the various laws concerning public hearings have not been suspended so even if the Board meets in person, then an electronic method of participation must be provided to the public for any public hearing.

MTA Legal Counsel have also advised that an argument can be made that a township board can meet in-person to conduct legislative functions (i.e. discuss or adopt ordinances and resolutions prescribing course of public conduct; public health, safety, and welfare considerations). [EO 2020-96](#) provides that "Nothing in this order should be taken to interfere with or infringe on the powers of the legislative and judicial branches to perform their constitutional duties or exercise their authority." However, the public must still have the option to participate.

Other Township Public Bodies:

Other meetings of various township public bodies may or may not be necessary:

- **Board of Review:** Necessary because required by statute.

- **Election Commission:** Necessary depending on Election Law deadlines to appoint election workers or other determinations
- **Planning Commission or Zoning Board of Appeals:** As [EO 2020-96](#) has opened up construction, meetings may be called to facilitate construction. May be held remotely and must provide for public participation.
- **Other township public bodies:** Determine case by case, but likely may not be necessary

Expenditure approval:

The township board is required at each regular meeting to audit all claims against the township presented for payment and authorize the payment of all allowed claims. Every payment of any kind (including payroll) leaving the township—with the sole exception of the current-year tax collection disbursement account—must be voted on by the board **before** being disbursed, unless the township has a written board-adopted “post-audit” policy to allow certain limited, specific, routine payments to be made prior to the board voting on them to avoid the township having late penalties—like the hall utilities and payroll. The township board must still vote to approve all those payments at the next meeting.

Sample post-audit policy language

All claims shall be approved by the township board prior to payment, except the following:

- 1) Payroll (election workers, sexton wages, etc.)
- 2) Utility bills (phone, electric, fuel, etc.)
- 3) Invoices with penalties or discounts that would be incurred if payment is not received prior to the board meeting where claims will be approved (identify specifically)

These claims shall be post-audited at the next board meeting following their issuance. (For example, your payment schedule would indicate Vouchers 101 to 104 were preauthorized by policy and approval by the board that evening.)

The (supervisor/other official) may authorize emergency expenditures when deemed essential due to the imminent threat to the health, safety and welfare of the township. (Set limits as desired.)

Township Business Operations:

MTA Legal Counsel suggest that the township board, or officials or staff designated by the township board with authority to direct some or all township employees, may issue notices similar to the sample below:

_____Township Residents,

Until further notice, _____Township Hall will not be open to the public due to Governor Whitmer’s “Stay Home Order,” [EO 2020-96](#) in reference to COVID-19 . Our elected officials will continue working in order to perform necessary government activities. Other Township employees will only work in-person if critically necessary, to help with these necessary government activities. If you have inquiries or require any Township services, please contact us at phone number _____ or by email at _____.

What Township Positions May Work?

Section 9 of [EO 2020-96](#) provides that “workers who are necessary to sustain or protect life,” defined as “**critical infrastructure workers,**” include:

- Persons performing other community-based government operations and essential functions. ***MTA Legal Counsel have advised that township board members and their deputies performing statutory duties of their board offices fall into this category and are “critical infrastructure workers.”***
- Workers involved in public works.
- Workers involved in water and wastewater.
- Workers involved in public communications.

All in-person government activities at whatever level (state, county or local) are suspended unless they are:

- Activities performed by “**critical infrastructure workers,**” including workers in law enforcement, public safety, and first responders. As noted above this also includes essential functions, public works, water and wastewater and public communication. (Section 9)
- Activities performed by **workers who are permitted to resume work** under section 11 of [EO 2020-96](#) which in relevant part allows for workers for lawn care and landscaping operations.
- Activities regarding public transit, trash pickup and disposal (including recycling and composting), the management and oversight of elections, and the maintenance of safe and sanitary public parks so as to allow for outdoor activity under the order. (Section 7)
- Activities necessary to support the activities of workers described in sections 8, 9, and 10 of [EO 2020-96](#), or to enable transactions that support businesses or operations that employ such workers. (Section 5) ***This would now apply to your zoning and building departments in support of resumed construction.***
- Activities necessary to conduct minimum basic operations (of the township), defined as allowing the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely. Government workers performing such duties need not be designated. (Sections 6 and 7)
 - ***MTA Legal Counsel have advised that conducting the budget public hearing at a board meeting and adopting the budget for the new fiscal year at a board meeting are necessary government activities because a budget must be approved before entering into a new fiscal year or the government will have no authority to operate or incur or pay bills or payroll.***
 - ***FOIA requests must be responded to due to statutory deadlines, subject to temporary additional days per [Executive Order 2020-38](#).***

Q. May township employees maintain township parks?

A township board may employ critical infrastructure workers to carry out the approved government activities of taking care of township-owned cemeteries, parks, and other public works. The township must have protocols as set forth in section 15 of [EO 2020-96](#) and in [EO 2020-97](#).

Q. Can a township maintain its cemetery, including mowing?

MTA Legal Counsel believes that a township can maintain their public works including public parks and cemeteries, which would include mowing and other maintenance activities. Any township personnel or contractor must maintain the recommended social distancing and take other required safety precautions as outlined in [EO 2020-97](#) sections 1, 2 and 7, as applicable. A township may also contract out for this work to be done as a resumed activity.

Q. May landscaping, lawncare, tree service, irrigation, and related outdoor maintenance companies operate under this order?

Workers for lawn care, pest control and landscaping operations may perform resumed activities subject to the protocols in section 2 and any other applicable sections of [EO 2020-97](#).

Q. Can a township do burials at its cemetery?

Yes, even though the executive order does not specifically say so, the [Homeland Security CISA memo](#) (March 19, 2020) that is referred to in [EO 2020-96](#) cites the following as included in “critical infrastructure workers” (necessary workers) who could be exceptions to the “stay at home” orders: “Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers.” So those functions are considered critical infrastructure functions. And [EO 2020-96](#) continues to allow funeral attendance (see below). Any in-person government activities must be performed consistently with the social distancing practices and other mitigation measures to protect workers and patrons described in [EO 2020-97](#).

Q. Can people have a funeral service at the cemetery with the burial?

[EO 2020-96](#) section 8(a)15 addresses funeral attendance and continues the restriction that no more than 10 people can be in attendance at a graveside funeral service.

In addition, section 4 of [EO 2020-96](#) states: “All individuals who leave their home or place of residence must adhere to social distancing measures recommended by the Centers for Disease Control and Prevention (“CDC”), including remaining at least six feet from people from outside the individual’s household to the extent feasible under the circumstances.”

Q. With the construction industry reopened as of May 7, what is the status of township construction code inspectors and zoning administrators?

Since May 7, 2020, workers in the construction industry, including workers in the building trades (plumbers, electricians, HVAC technicians, and similar workers), are able to resume activities, now subject to the protocols in [EO 2020-97](#).

MTA Legal Counsel believes that township construction code inspectors and zoning administrators may do in-person permitting activities as long as the sites visited also comply with the protocols [EO 2020-97](#).

Q. Are township employees able to go back to work at township facilities in parts of the state?

In **Region 6** (*Manistee, Wexford, Missaukee, Roscommon, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Montmorency, Alpena, Charlevoix, Cheboygan, Presque Isle, and Emmet Counties*) and **Region 8** (*Gogebic, Ontonagon, Houghton, Keweenaw, Iron, Baraga, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Mackinac, and Chippewa Counties*), workers who work in an office setting may resume work, but only to the extent that such work is not capable of being performed remotely. (EO 2020-96 section 11(m)) The township board, as the employer, will determine whether to open township facilities to workers.

What Precautions Must be Taken?

[EO 2020-97](#)—Safeguards to protect Michigan’s workers from COVID-19, requires that all businesses or operations that require their employees to leave their homes or residences for work under [EO 2020-96](#) must comply, at a minimum, with the provisions of [EO 2020-97](#) (*refer to EO 91 for specific protocols and requirements*).