



**Updated April 19: Covid-19: Declaring a Local State of Emergency
under the Open Meetings Act,
starting March 31, 2021, through December 31, 2021**

Note: The information provided here by MTA Legal Counsel applies to holding the meetings of any township public body, but only a supervisor and township board can declare a local state of emergency.

Q. Can our township resume holding indoor in-person township board meetings?

A. Under the current [Michigan Department of Health and Human Services Order](#), effective April 19, 2021, and the [April 19 - Gatherings and Face Mask Order Amendment](#), through May 24, 2021, you may resume indoor in-person public meetings subject to certain limitations. **The indoor and outdoor gathering limits on the number of persons do not apply to public meetings held in compliance with the OMA.** Organizers and facilities must still design the meeting to encourage and maintain physical distancing, and must ensure that persons not part of the same group maintain 6 feet of distance from one another to the extent possible. Seating should be arranged accordingly. At these indoor meetings, masks must also be worn unless a personal exception applies as set forth in the MDHHS Order.

NOTE: Although the March 31 and April 19 MDHHS Orders do not state a specific room capacity limit for a meeting room for a meeting of a public body (resulting in an interpretation that the capacity limit is the fire marshal occupancy limit, then reduced by 6-foot physical distancing), the MDHHS has made the following statement in one of its [March 19 FAQs](#) that the room capacity for a meeting of a public body is **50% of the fire marshal occupancy limit, then reduced by 6-foot physical distancing. A township board may want to consider taking a prudent approach, in consultation with its attorney, in deciding whether to comply with the MDHHS FAQs more restrictive capacity calculation**

Q. Due to COVID-19, we have concerns about the safety of holding an in-person township board meeting. Can we instead have an electronic meeting of the board?

A. Pursuant to the [Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq.](#), on and after March 31, 2021, through December 31, 2021, public bodies are permitted to hold meetings electronically only for reasons set forth in [MCL 15.263](#), for accommodating absent members. Sec 3(2) of the OMA provides that procedures shall be established to accommodate board members who are absent because of: "military duty, a medical condition, or a statewide **or local state of emergency** or state of disaster declared pursuant to law or charter or local ordinance by the governor **or a local official**, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person." *(emphasis added)*

As such, if your township has validly declared a local state of emergency, then for the duration of the emergency, but not longer than December 31, 2021, the township is allowed to continue conducting its meetings electronically, subject to the requirements of [MCL 15.263a](#).

You should also be aware that there are ongoing proposals for amendments to the OMA that could impact these provisions; therefore, you need to keep watch for any such future amendments.

Q. Does a township have the authority to declare a local state of emergency?

A. Under the [Emergency Management Act, Public Act 390 of 1976, MCL 30.401 et seq.](#), any municipality that has first appointed an emergency management coordinator may: [d]eclare a local state of emergency if circumstances within the county or municipality indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists and, under a declaration of a local state of emergency, issue directives as to travel restrictions on county or local roads. [MCL 30.410\(b\)](#)

While the language quoted above only allows a municipality to issue directives as to travel restrictions on county or local roads, it does not require any such directives be enacted in order to declare a local state of emergency. Thus, a municipality can declare a local state of emergency with COVID-19 being the cited reason because it is a “natural or human-made cause” that exists within the community and threatens widespread or severe injury or loss of life, if contracted.

The power to declare a local state of emergency is vested in the chief executive official of the township. The chief executive official is defined as the township supervisor. Additionally, the emergency declaration may not last more than seven (7) days, without the township board (the governing body of the municipality) voting in a meeting to extend, by resolution, the declaration for a set period of time. The declaration of emergency must be in writing, and promptly transmitted to the Department of State Police Emergency Division.

It should also be noted that some counties have already declared a local state of emergency and that pursuant to such declaration municipalities within such counties may hold electronic public meetings. Such authority to hold electronic meetings extends during the duration of the county emergency declaration but cannot extend beyond December 31, 2021.

Finally, the plain language of the OMA allows a township board to adopt an ordinance to declare a local state of emergency.

Q. How does a township appoint an emergency management coordinator?

A. The method for appointing an emergency management coordinator is set forth at [MCL 30.409\(2\)](#) to (4). The emergency coordinator is appointed by the township supervisor.

Under the statute, a township with a population of 25,000 people or more **shall** either: (1) appoint an emergency management coordinator; (2) appoint the coordinator of the county as its emergency management coordinator; or (3) make no appointment, in which case the township supervisor serves as the emergency management coordinator. [MCL 30.409\(2\)](#)

Townships with populations of 10,000 people or more **may** appoint an emergency management coordinator to serve at the direction of the township supervisor. [MCL 30.409\(3\)](#) Finally, townships with a population less than 10,000 **may** appoint an emergency management coordinator who serves at the direction of the county emergency management coordinator. [MCL 30.409\(4\)](#)

A public official is not barred from being appointed a municipality’s emergency management coordinator. [MCL 30.409\(6\)](#). Additionally, a county coordinator can be appointed a municipal coordinator for any municipality within the county and vice versa. [MCL 30.409\(7\)](#)