

Analysis of the New DHHS Gathering and Face Mask Order

(Updated 3/11/21)

Governor Whitmer and the Michigan Department of Health and Human Services (“DHHS”) issued a revised health order that is effective today. While it runs through April 19th, we anticipate that there will be additional revisions to this order during the next three weeks.

[The order can be found here.](#)

For brokerage and association activity, the following summary of the order should be helpful:

1. The limitation on residential gatherings has been increased to 15 persons from no more than 3 households, which should make in-person showings, inspections, walkthroughs, and the like, easier.
2. Open houses can be held; however, no more than three households (the listing agent and two prospective buyer households) can view the home at one time. We continue to advocate to DHHS for additional flexibility for real estate gatherings. However, the current position from DHHS was recently outlined in an FAQ on its website:

Q: What gathering rules apply to open house events and private real estate showings?

A: Any event that takes place in or at a residence must adhere to the residential gathering limits – even if the residence is vacant. Accordingly, open houses, real estate showings, and all other events at residential properties must not exceed 15 people from 3 households indoors at the same time.

3. Seller clients may still authorize non-traditional open houses whereby the listing agent can advertise parameters for seeing the property in advance, requiring some form of sign-in with the listing agent that the prospective buyer has arrived, and the prospective buyer would wait in their vehicle until they are notified that it is their turn to tour the home. This way, the listing agent is able to ensure that only three households are in the residence at a given time. Of course, it must also be an arrangement that the Seller is comfortable with.
4. The limitation on indoor non-residential gatherings has been increased to 25 persons, which means that in-person gatherings for Board and Committee work may resume, limited to 25 or fewer individuals.
5. Retail settings are not subject to the 25-person limit but instead are limited to 50% of the building’s capacity as set by the Fire Marshall. The DHHS Order does not define “retail” but the term is used generally to describe the sale of both goods or services to the public and, thus would appear to include real estate offices.
6. In-person gatherings for continuing education and other conferences may resume but are limited to 25 or fewer individuals.

7. Indoor trade shows are considered to be retail events and are permitted with a 50% capacity limitation. (If food and beverages are provided at the trade show, the 25 person limitation would apply.)
8. Office work is more clearly allowed. However, the MIOSHA rules are still in force. These rules impose strict health and safety requirements – and require remote work where feasible. The MIOSHA rules and summary of the workplace requirements can be found in the **COVID-19 Office Preparedness Toolkit**, attached below for your convenience. [Download Toolkit](#)
9. Of course, all gatherings still require masks and social distancing.
10. The state has included a definition of “indoors” designed to prevent persons from claiming activities taking place in tent-like structures are outdoors:
“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.

As restrictions are lifted, we will communicate those changes. We understand that some of these larger gathering restrictions remain frustrating. Michigan Realtors® will continue to advocate for additional gathering options for real estate activity going into the spring market. If you have questions related to the above, please contact Brian Westrin at bwestrin@mirealtors.com.