

VILLAGE OF MAYVILLE
TUSCOLA COUNTY, MICHIGAN

RESOLUTION ADOPTING VILLAGE OF MAYVILLE COVID-19 EMPLOYMENT
POLICY PURSUANT TO OCTOBER 14, 2020, MICHIGAN OCCUPATIONAL SAFETY
AND HEALTH ADMINISTRATION EMERGENCY RULES AND NOVEMBER 15,
2020, MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
EMERGENCY ORDER UNDER MCL 333.2253

RESOLUTION NO. 20- 1117

DATED: November 17, 2020

At a regular meeting of the Village of Mayville Village Council, Tuscola County, Michigan, held at the Village of Mayville District Library located at 6090 Fulton Street, Mayville, MI 48744 on the 17th day of November 2020, at 7:00 p.m. the following Resolution was introduced and adopted:

PRESENT: Sue Atkinson, Sue Marlow, Susan Shaver, Kelly Torrey and President Barbara Valentine.

ABSENT: None

RESOLUTION ADOPTING VILLAGE OF MAYVILLE COVID-19
EMPLOYMENT POLICY PURSUANT TO OCTOBER 14, 2020 MICHIGAN
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION EMERGENCY
RULES AND NOVEMBER 15, 2020, MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES EMERGENCY ORDER UNDER MCL 333.2253

WHEREAS, on or about October 14, 2020, the Michigan Occupational Safety and Health Administration (“MIOSHA”) enacted Emergency Rules in regard to COVID-19.

WHEREAS, said Emergency Rules require all employers to “create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.”

WHEREAS, on or about November 15, 2020, the Michigan Department of Health and Human Services (“MDHHS”) issued an Emergency Order under MCL 333.2253, which, among other things, prohibits indoor gatherings at “non-residential venues.”

WHEREAS under the MDHHS Emergency Order, workplace gatherings are only permitted to the extent that they comply with MIOSHA’s aforesaid Emergency Rules.

WHEREAS, the Village of Mayville Village Council desires to slow and stop the spread of COVID-19 and to save lives, minimize and mitigate damage, enhance the efficiency of efficacy of Village governmental operations, enhance emergency response operations and enhance and protect the lives of the Village's employees, citizens, residents and property owners.

WHEREAS, the Village of Mayville Village Council desires to comply with the requirements of the aforesaid Emergency Rules and Emergency Order.

WHEREAS, the Village of Mayville Village Council has determined that the adoption of this Resolution will serve to effectuate the goals and desires stated above and will benefit the health, safety, and welfare of the residents and property owners of Village of Mayville.

WHEREAS, the instant Resolution shall serve as Village of Mayville's Policy in conformance with the aforesaid Emergency Rules and Emergency Order.

NOW, THEREFORE, BE IT RESOLVED:

1. MIOSHA's aforesaid Emergency Rules are fully incorporated herein by reference as though said Emergency Rules were fully restated herein word-for-word. Said Emergency Rules are attached to this Resolution as **Exhibit A**.

2. MDHHS's aforesaid Emergency Order is fully incorporated herein by reference as though said Emergency Order were fully restated herein word-for-word. Said Emergency Order is attached to this Resolution as **Exhibit B**.

3. It shall be the policy of Village of Mayville that any in-person/in-office Village work activities which can feasibly be completed remotely shall, in fact, be completed remotely by Village employees. Any in-person/in-office work activities to be performed by Village employees are hereby prohibited to the extent that said work activities can feasibly be completed remotely. The Village hereby encourages all Village employees to complete their work activities remotely to the extent feasible.

4. The Village Council of the Village of Mayville hereby empowers to the Village of Mayville President to implement this Policy on a day-to-day basis and to determine the feasibility of completing work remotely for each employee of the Village.

5. This policy is subject to change at any time pursuant to the discretion of the Village Council.

6. This policy shall expire on December 8, 2020, at 11:59 p.m. unless it is extended by the Village Council.

7. The instant Resolution/Policy shall be available for review, inspection and copying on the Village of Mayville website and at the Village of Mayville Governmental Offices.

8. All resolutions or parts of resolutions insofar as they conflict with the provisions hereof are rescinded to the extent of such conflict.

This RESOLUTION was offered by Council member Marlow, supported by Council member Shaver at a meeting on November 17, 2020. The members of the Village Council voted as follows:

YEAS: Members – Shaver, Atkinson, Marlow, Torrey and Valentine

NAYS: Members - None

The foregoing Resolution was duly adopted at a regular meeting of the Village of Mayville Village Council held on the 17th day of November, 2020.



Barbara Valentine
President of the Village of Mayville



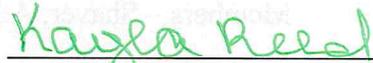
Kayla Reed
Clerk of Mayville Village

*****The Village Clerk's Certification is contained on the following page*****

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RESOLUTION DECLARED ADOPTED: CERTIFICATION

I, Kayla Reed, Clerk of Village of Mayville, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted at a regular meeting of the Village of Mayville Council held on November 17th, 2020; that the meeting was conducted and public notice of the meeting was given pursuant to and in compliance with the Michigan's Open Meetings Act; that a quorum of the Council was present and voted in favor of the resolution; and that the minutes of the meeting will be or have been made available as required by the Open Meetings Act.



Kayla Reed
Kayla Reed, Clerk
Village of Mayville
Tuscola County, Michigan

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY
MICHIGAN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

GENERAL RULES

EMERGENCY RULES

CORONAVIRUS DISEASE 2019 (COVID-19)

Filed with the secretary of state on October 14, 2020

These rules take effect upon filing with the secretary of state and shall remain in effect for 6 months.

(By authority conferred on the director of the department of labor and economic opportunity by sections 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998.)

FINDING OF EMERGENCY

These rules are promulgated by the Director of the Michigan Department of Labor and Economic Opportunity to establish requirements for employers to control, prevent, and mitigate the spread of coronavirus disease 2019 (COVID-19) among employees. Based on the best available scientific evidence and public health guidance published by the U.S. Centers for Disease Control (CDC) and other public health authorities, COVID-19 is an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). SARS-CoV-2 is easily transmitted through the air from person-to-person through respiratory aerosols, and the aerosols can settle and deposit on environmental surfaces where they can remain viable for days. There is currently no approved vaccine or proven effective antiviral treatment for COVID-19. In addition to its contagious nature, COVID-19 is dangerous and deadly. As of October 7, 2020, COVID-19 has infected 130,842 Michiganders and killed 6,847 in less than seven months.

Work, by its nature, removes people from the confines and relative safety of their homes to interact with others who may be carrying the virus including coworkers, customers, patients, or the public at large. Employees who come into contact with others at work are at elevated risk of infection.

Since March 2020, employers have reported 30 worker deaths from COVID-19 in Michigan and 127 in-patient hospitalizations for COVID-19 potentially linked to workplace exposure to SARS-CoV-2. MIOSHA has received over 3,800 complaints from employees alleging uncontrolled COVID-19 hazards in the workplace and 263 referrals from local government, including local health departments, indicating that businesses were not taking all the necessary measures to protect their employees from SARS-CoV-2 infection.

The Legislature has declared that “all employees shall be provided safe and healthful work environments free of recognized hazards.” MCL 408.1009. Employers must provide employees with “a place of employment that is free from recognized hazards that are causing, or are likely to

October 14, 2020

cause, death or serious physical harm to the employee.” MCL 408.1011(a). Nonetheless, Michigan’s experience with COVID-19 demonstrates that the disease can spread rapidly without protective measures and standards in place. Workplaces, where employees, customers, and members of the public congregate, pose a particular threat for COVID-19’s spread. To mitigate and limit COVID-19’s spread in workplaces and to protect employees across Michigan, it is necessary to impose these rules and standards.

Businesses must do their part to protect employees, their patrons, and their communities. Many businesses have already done so by implementing robust safeguards to prevent viral transmission. But we can and must do more: no one should feel unsafe at work. Pursuant to section 21(2) of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1021, I find that these emergency rules are necessary to protect employees during the ongoing COVID-19 pandemic.

Based on the best available scientific evidence and public health guidance available regarding the spread of COVID-19 in the workplace, I find that these emergency rules are necessary to protect employees. If the non-emergency rulemaking process specified in the administrative procedures act of 1969 (APA), 1969 PA 306, MCL 24.201 to 24.328, for the promulgation of rules was followed, employees across Michigan may be unnecessarily exposed to SARS-CoV-2 during the rule promulgation process. Further, existing MIOSHA rules do not directly address COVID-19’s spread in the workplace and employees are likely to experience an increased probability of infection at work until the protective measures in this rule are in place. Accordingly, following the non-emergency rulemaking process would undermine the effectiveness of Michigan’s emergency response to COVID-19, and expose Michigan workers to a higher risk of contracting the disease in their places of employment.

The Director, therefore, for the preservation of the public health, safety, and welfare, finds that a clear and convincing need exists for the promulgation of emergency rules as provided in section 48 of the APA, MCL 24.248, without following the notice and participation procedures required by sections 41 and 42 of the APA, MCL 24.241 and 24.242.

Rule 1. Scope and application.

These rules apply to all employers covered in the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

Rule 2. Definitions.

(1) As used in these rules:

- (a) “Close contact” means someone who was within 6 feet of an infected person for at least 15 minutes starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to specimen collection) until the time the person is isolated.
- (b) “COVID-19” means coronavirus disease 2019, a severe acute respiratory disease characterized by symptoms including fever, cough, fatigue, and shortness of breath which may progress to pneumonia, multi-organ failure, and death.
- (c) “Known cases of COVID-19” means persons who have been confirmed through diagnostic testing to have COVID-19.
- (d) “SARS-CoV-2” means severe acute respiratory syndrome coronavirus 2, the virus which is the causative agent of COVID-19.
- (e) “Suspected cases of COVID-19” means persons who have symptoms of COVID-19 but have not been confirmed through diagnostic testing or persons who have had close contact with a person who has been confirmed through diagnostic testing to have COVID-19.

Rule 3. Exposure determination for all employers.

- (1) The employer shall evaluate routine and reasonably anticipated tasks and procedures to determine whether there is actual or reasonably anticipated employee exposure to SARS-CoV-2.
- (2) The employer shall categorize jobs tasks and procedures into the following risk categories:
 - (a) Lower exposure risk job tasks and procedures. These job tasks and procedures are those that do not require contact with people known to be or suspected of being infected with SARS-CoV-2 nor frequent close contact (e.g., within 6 feet) with the general public. Workers in this category have minimal occupational contact with the public and other coworkers.
 - (b) Medium exposure risk job tasks and procedures. These job tasks and procedures include those that require frequent or close contact (e.g., within 6 feet) with people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients. In areas without ongoing community transmission, workers in this risk group may have frequent contact with travelers who may return from locations with widespread SARS-CoV-2 transmission. In areas where there is ongoing community transmission, workers in this category may have contact with the general public (e.g., schools, high-population-density work environments, high-volume retail settings).
 - (c) High exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19. Workers in this category could include licensed health care professionals, medical first responders, nursing home employees, law enforcement, correctional officers, or mortuary workers.
 - (d) Very high exposure risk job tasks and procedures. These job tasks and procedures are those with high potential for exposure to known or suspected sources of COVID-19 during specific medical, postmortem, or laboratory procedures. Workers in this category can include:
 - (i) Healthcare workers (e.g., doctors, nurses, dentists, paramedics, emergency medical technicians) performing aerosol-generating procedures (e.g., intubation, cough induction procedures, bronchoscopies, some dental procedures and exams, or invasive specimen collection) on known or suspected COVID-19 patients.
 - (ii) Health care or laboratory personnel collecting or handling specimens from known or suspected COVID-19 patients (e.g., manipulating cultures from known or suspected COVID-19 patients).
 - (iii) Morgue workers performing autopsies, which generally involve aerosol-generating procedures, on the bodies of people who are known to have or are suspected of having COVID-19 at the time of their death.

Rule 4. COVID-19 preparedness and response plan for all employers.

- (1) The employer shall develop and implement a written COVID-19 preparedness and response plan, consistent with the current guidance for COVID-19 from the US Centers for Disease Control and Prevention (CDC) and recommendations in “Guidance on Preparing Workplaces for COVID-19,” developed by the Occupational Health and Safety Administration (OSHA).
- (2) The preparedness and response plan shall include the employee exposure determination from Rule 3 and shall detail the measures the employer will implement to prevent employee exposure, including any:
 - (a) Engineering controls.

- (b) Administrative controls.
 - (c) Basic infection prevention measures.
 - (d) Personal protective equipment.
 - (e) Health surveillance.
 - (f) Training.
- (3) The employer shall make the preparedness and response plan readily available to employees and their representatives, whether via website, internal network, or by hard copy.

Rule 5. Basic infection prevention measures for all employers.

- (1) The employer shall promote frequent and thorough hand washing, including by providing workers, customers, and worksite visitors with a place to wash their hands. If soap and running water are not immediately available, provide antiseptic hand sanitizers or alcohol-based hand towelettes containing at least 60 percent alcohol.
- (2) The employer shall require workers who are sick to not report to work or work in an isolated location.
- (3) The employer shall prohibit workers from using other workers' phones, desks, offices, or other work tools and equipment, when possible.
- (4) The employer shall increase facility cleaning and disinfection to limit exposure to SARS-CoV-2, especially on high-touch surfaces (e.g., door handles), paying special attention to parts, products, and shared equipment (e.g., tools, machinery, and vehicles).
- (5) The employer shall establish procedures for disinfection in accordance with CDC guidance if it is suspected or confirmed that an employee, visitor, or customer has a known case of COVID-19.
- (6) The employer shall use Environmental Protection Agency (EPA)-approved disinfectants that are expected to be effective against SARS-CoV-2 based on data for harder to kill viruses.
- (7) The employer shall follow the manufacturer's instructions for use of all cleaning and disinfection products (e.g., concentration, application method and contact time, and personal protective equipment).
- (8) The employer shall create a policy prohibiting in-person work for employees to the extent that their work activities can feasibly be completed remotely.

Rule 6. Health surveillance for all employers.

- (1) The employer shall conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with, if possible, a temperature screening.
- (2) The employer shall direct employees to promptly report any signs and symptoms of COVID-19 to the employer before or during the work shift.
- (3) The employer shall physically isolate any employees known or suspected to have COVID-19 from the remainder of the workforce, using measures such as, but not limited to:
 - (a) Not allowing known or suspected cases to report to work.
 - (b) Sending known or suspected cases away from the workplace.
 - (c) Assigning known or suspected cases to work alone at a remote location (for example, their home), as their health allows.
- (4) When an employer learns of an employee, visitor, or customer with a known case of COVID-19, the employer shall:
 - (a) Immediately notify the local public health department, and

- (b) Within 24 hours of learning of the known case, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a known case of COVID-19.
- (5) The employer shall allow employees with a known or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the CDC and they are released from any quarantine or isolation order by the local public health department.

Rule 7. Workplace controls for all employers.

- (1) The employer shall designate one or more worksite COVID-19 safety coordinators to implement, monitor, and report on the COVID-19 control strategies developed under these rules. The COVID-19 safety coordinator must remain on-site at all times when employees are present on site. An on-site employee may be designated to perform the COVID-19 safety coordinator role.
- (2) The employer shall place posters in the languages common in the employee population that encourage staying away from the workplace when sick, cough and sneeze etiquette, and proper hand hygiene practices.
- (3) The employer shall keep everyone on the worksite premises at least 6 feet from one another to the maximum extent possible and to reduce congestion, including using ground markings, signs, and physical barriers, as appropriate to the worksite.
- (4) The employer shall provide non-medical grade face coverings to their employees at no cost to the employee.
- (5) The employer shall require face coverings to be worn when employees cannot consistently maintain 6 feet of separation from other individuals in the workplace and consider face shields when employees cannot consistently maintain 3 feet of separation from other individuals in the workplace.
- (6) The employer shall require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.

Rule 8. Personal protective equipment requirements for all employers.

- (1) The employer shall provide employees with the types of personal protective equipment, including respirators if necessary, for protection from SARS-CoV-2 appropriate to the exposure risk associated with the job. The employer must follow current CDC and OSHA guidance for personal protective equipment.
- (2) The employer shall ensure that the personal protective equipment is properly fitted and worn; used consistently; regularly inspected, maintained, and replaced, as necessary; and properly removed, cleaned, and stored or disposed of to avoid contamination of self, others, or the work environment.
- (3) In establishments that provide medical treatment or housing to known or suspected cases of COVID-19, the employer shall ensure that employees in frequent or prolonged close contact with such cases are provided with and wear, at a minimum, an N95 respirator, goggles or face shield, and a gown.

Rule 9. Industry-specific requirements. An employer of a business, operation, or facility in the industry sectors named below shall comply with the following requirements specific for its business, operation, or facility.

- (1) **Construction.** Businesses or operations in the construction industry must:
 - (a) Create dedicated entry point(s) at every worksite, if possible, for daily screening as provided in Rule 6 of these rules, or in the alternative issue stickers or other indicators to employees to show that they received a screening before entering the worksite that day.

- (b) Identify choke points and high-risk areas where employees must stand near one another (such as hallways, hoists and elevators, break areas, water stations, and buses) and control their access and use (including through physical barriers) so that social distancing is maintained.
 - (c) Create protocols for minimizing personal contact upon delivery of materials to the worksite.
- (2) **Manufacturing.** Manufacturing facilities must:
- (a) Create dedicated entry point(s) at every facility for daily screening and ensure physical barriers are in place to prevent anyone from bypassing the screening.
 - (b) Create protocols for minimizing personal contact upon delivery of materials to the facility.
- (3) **Retail, libraries, and museums.** Retail stores that are open for in-store sales, as well as libraries and museums, must:
- (a) Create communications material for customers (e.g., signs or pamphlets) to inform them of changes to store practices and to explain the precautions the store is taking to prevent infection.
 - (b) Require patrons to wear a face covering (unless the patron is unable medically to tolerate a face covering).
 - (c) Post signs at store entrances instructing customers to wear a face covering when inside the store.
 - (d) Post signs at store entrances informing customers not to enter if they are or have recently been sick.
 - (e) Design spaces and store activities in a manner that encourages employees and customers to maintain 6 feet of distance from one another.
 - (f) Install physical barriers at checkout or other service points that require close interaction, including plexiglass barriers, tape markers, or tables.
 - (g) Establish an enhanced cleaning and sanitizing protocol for high-touch areas like restrooms, credit-card machines, keypads, counters, shopping carts, and other surfaces.
- (4) **Restaurants and bars.** Restaurants and bars must:
- (a) Require 6 feet of separation between parties or groups at different tables or bar tops (e.g., spread tables out, use every other table, remove or put up chairs or barstools that are not in use).
 - (b) Require patrons to wear a face covering except when seated at their table or bar top (unless the patron is unable medically to tolerate a face covering).
 - (c) Prohibit access to common areas in which people can congregate.
 - (d) Create communications material for customers (e.g., signs, pamphlets) to inform them of changes to restaurant or bar practices and to explain the precautions that are being taken to prevent infection.
 - (e) Post signs at all entrances informing customers not to enter if they are or have recently been sick.
 - (f) Post signs instructing customers to wear face coverings until they are seated at their table.
 - (g) Require hosts, servers, and staff to wear face coverings in the dining area in addition to areas where social distancing cannot be maintained.
- (5) **Health care.** Health facilities or agencies, including outpatient health-care facilities, clinics, primary care physician offices, dental offices, and veterinary clinics, must:
- (a) Post signs at entrance(s) instructing patients to wear a face covering when in the facility, except as necessary for identification or to facilitate an examination or procedure.

- (b) Limit waiting-area occupancy to the number of individuals who can be present while staying 6 feet away from one another and ask patients, if possible, to wait in cars for their appointment to be called.
 - (c) Mark or arrange waiting rooms to enable 6 feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
 - (d) Conduct a common screening protocol for all patients, including a temperature check and questions about COVID-19 symptoms.
 - (e) Place hand sanitizer and face coverings at patient entrances.
 - (f) Require patients to wear a face covering when in the facility, except as necessary for identification or to facilitate an examination or procedure.
 - (g) Install physical barriers at sign-in, temperature screening, or other service points that normally require personal interaction (e.g., plexiglass, cardboard, tables).
- (6) **In-home services.** All businesses or operations that provide in-home services, including cleaners, repair persons, painters, and the like, must:
- (a) Maintain accurate appointment record, including date and time of service, name of client, and contact information, to aid with contact tracing.
 - (b) Prior to entering the home, inquire with the customer whether anyone in the household has been diagnosed with COVID-19, is experiencing symptoms of COVID-19, or has had close contact with someone who has been diagnosed with COVID-19. If so, the business or operation must reschedule for a different time.
- (7) **Personal-care services.** All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal-care services must:
- (a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
 - (b) Post signs at all entrances informing customers not to enter if they are or have recently been sick.
 - (c) Restrict entry to customers, to a caregiver of those customers, or to the minor dependents of those customers.
 - (d) Limit waiting-area occupancy to the number of individuals who can be present while staying 6 feet away from one another and ask customers, if possible, to wait in cars for their appointment to be called.
 - (e) Discard magazines in waiting areas and other non-essential, shared items that cannot be disinfected.
 - (f) Mark or arrange waiting rooms to enable 6 feet of social distancing (e.g., by placing X's on the ground and/or removing seats in the waiting room).
 - (g) Require employees and customers to wear a face covering at all times, except that customers may temporarily remove a face covering when receiving a service that requires its removal. During services that require a customer to remove their face covering, an employee must wear a face shield or goggles in addition to the face covering.
- (8) **Public accommodations.** Sports and entertainment facilities, including arenas, cinemas, concert halls, performance venues, sporting venues, stadiums and theaters, as well as places of public amusement, such as amusement parks, arcades, bingo halls, bowling alleys, night clubs, skating rinks, and trampoline parks, must:
- (a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
 - (b) Post signs outside of entrances informing customers not to enter if they are or have recently been sick.
 - (c) Require patrons to wear a face covering (unless the patron is unable medically to tolerate a face covering).

- (d) Establish crowd-limiting measures to meter the flow of patrons (e.g., digital queuing, delineated waiting areas, parking instructions, social distance markings on ground or cones to designate social distancing).
 - (e) For sports and entertainment facilities, establish safe exit procedures for patrons (e.g., dismiss groups based on ticket number, row).
- (9) **Sports and exercise facilities.** Gymnasiums, fitness centers, recreation centers, exercise facilities, exercise studios, bowling alleys, roller rinks, ice rinks, and like facilities must:
- (a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
 - (b) Post signs outside of entrances instructing individuals not to enter if they are or have recently been sick.
 - (c) Mandate wearing of facial coverings at all times except when swimming.
 - (d) Provide equipment-cleaning products throughout the facility for use on equipment.
 - (e) Ensure that ventilation systems operate properly.
- (10) **Meat and poultry processing.** Meat and poultry processing plants must:
- (a) Create at least 1 dedicated entry point at every facility for daily screening and ensure physical barriers are in place to prevent anyone from bypassing the screening.
 - (b) Provide clean face coverings or disposable mask options for employees to use when the coverings become wet, soiled, or otherwise visibly contaminated over the course of a workday.
- (11) **Casinos.** Casinos must:
- (a) Post signs at all entrances instructing customers to wear a face covering when inside the facility.
 - (b) Designate entry points and exit points with extensive signage of the directional flow of patrons.
 - (c) Place signs at each entrance point, cage, and throughout the casino reminding patrons of CDC guidelines for social distancing practices, proper washing of hands, wearing face coverings, and to stay at home if feeling ill or sick.
 - (d) Conduct a daily entry screening protocol for customers and any other individuals entering the facility, including a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19, together with temperature screening.
 - (e) Require patrons to wear a face covering, except while eating or drinking or for identification purposes.

Rule 10. Training requirements for all employers.

- (1) The employer shall provide training to employees on SARS-CoV-2 and COVID-19.
- (2) The employer shall provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
- (3) The training shall cover:
 - (a) Workplace infection-control practices.
 - (b) The proper use of personal protective equipment.
 - (c) Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
 - (d) How to report unsafe working conditions.
- (4) The employer shall provide updated training if it changes its preparedness and response plan or new information becomes available about the transmission of SARS-CoV-2 or diagnosis of COVID-19.

Rule 11. Recordkeeping requirements for all employers.

- (1) Employers must maintain a record of the following requirements:
 - (a) Training. The employer shall maintain a record of all COVID-19 employee training.
 - (b) Screening protocols. The employer shall maintain a record of screening for each employee or visitor entering the workplace.
 - (c) Records of required notifications. The employer shall maintain a record of each notification required by Rule 6 of these rules.
- (2) Employers must maintain records for 1 year from time of generation.

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY

10/14/2020
Date

Sean Egan
Sean Egan
Director COVID Workplace Safety

Pursuant to Section 48(1) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248(1), I hereby concur in the finding of the Department of Labor and Economic Opportunity that circumstances creating an emergency have occurred and the public interest requires the promulgation of the above rules.

10/14/2020
Date

Gretchen Whitmer
Honorable Gretchen Whitmer
Governor



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

ROBERT GORDON
DIRECTOR

November 15, 2020

Emergency Order under MCL 333.2253 – Gatherings and Face Mask Order

Michigan law imposes on the Michigan Department of Health and Human Services (MDHHS) a duty to continually and diligently endeavor to “prevent disease, prolong life, and promote public health,” and gives the Department “general supervision of the interests of health and life of people of this state.” MCL 333.2221. MDHHS may “[e]xercise authority and promulgate rules to safeguard properly the public health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department.” MCL 333.2226(d).

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine for this disease. COVID-19 spreads through close human contact, even from individuals who may be asymptomatic.

In recognition of the severe, widespread harm caused by epidemics, the Legislature has granted MDHHS specific authority, dating back a century, to address threats to the public health like those posed by COVID-19. MCL 333.2253(1) provides that “[i]f the 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. Emergency procedures shall not be limited to this code.” See also *In re Certified Questions*, Docket No. 161492 (Viviano, J., concurring in part and dissenting in part, at 20) (“[T]he 1919 law passed in the wake of the influenza epidemic and Governor Sleeper’s actions is still the law, albeit in slightly modified form.”); *id.* (McCormack, C.J., dissenting, at 12). Enforcing Michigan’s health laws, including preventing disease, prolonging life, and promoting public health, requires limitations on gatherings and the establishment of procedures to control the spread of COVID-19. This includes limiting the number, location, size, and type of gatherings, and requiring the use of mitigation measures at gatherings as a condition of hosting such gatherings.

On March 10, 2020, MDHHS identified the first two presumptive-positive cases of COVID-19 in Michigan. As of November 13, 2020, Michigan had seen 244,741 confirmed cases and 7,929 confirmed deaths attributable to COVID-19. Michigan was one of the states most heavily impacted by COVID-19 early in the pandemic, with new cases peaking at nearly 2,000 per day in late March. Strict preventative measures and the cooperation of Michiganders drove daily case numbers dramatically down to less than 200 confirmed cases in mid-June, greatly reducing the loss of life. Since October, Michigan has seen an exponential growth in cases. Daily new cases are now over 6,000 which is three times higher than what was seen in the spring.

The State of Michigan presently has a seven-day average of 512 cases per million people, which is five times higher than the case rate on October 1. Test positivity has increased from 3.2% in early October to 12% on November 13. And while testing has increased 78% since October 1, test positivity has increased 225% during that same time frame, indicating COVID-19 spread is happening much more quickly than tests being administered. All regions in Michigan are now at the highest risk level, with seven-day averages in excess of 150 cases per million residents. Rising cases creates significant pressure on our

emergency and hospital systems. Complaints of coronavirus-like illness in emergency departments increased for the ninth week in a row for the state. Hospitalizations for COVID-19 have doubled in less than two weeks, and there are now over 4.5 times the hospitalizations recorded on October 1. An average of 363 daily hospital admissions were seen in Michigan in the last week, and with individuals under 60 years old accounting for nearly half of all new hospital admissions. With over 3,000 Michiganders hospitalized for COVID-19, 15% of all available inpatient beds are now occupied by patients who have COVID-19, the highest number since mid-April. The state death rate is 5 deaths per million people and continues to increase. The current death rate is four times higher than it was in early October. There are more than 300 weekly deaths in Michigan and nearly every region has more than 20 weekly deaths. Due to delays between exposure, onset of symptoms, and hospitalization, the sharp rise in new infections suggests that the state is entering the most challenging phase of the pandemic thus far.

To protect vulnerable individuals, ensure the health care system can provide care for all health issues, and prevent spread in schools during the influenza season, we must reduce the spread of COVID-19. This necessitates use of more forceful mitigation techniques to reduce the spread of the virus. As such, it is necessary to issue orders under the Public Health Code addressing these topics.

Considering the above, and upon the advice of scientific and medical experts, I have concluded pursuant to MCL 333.2253 that the COVID-19 pandemic continues to constitute an epidemic in Michigan. I have also, subject to the grant of authority in 2020 PA 238 (signed into law on October 22, 2020), herein defined the symptoms of COVID-19 based on the latest epidemiological evidence. I further conclude that control of the epidemic is necessary to protect the public health and that it is necessary to restrict gatherings and establish procedures to be followed during the epidemic to ensure the continuation of essential public health services and enforcement of health laws. As provided in MCL 333.2253, these emergency procedures are not limited to the Public Health Code.

I therefore order that:

1. Definitions.

- (a) “Child-care organization” means that term as defined by section 1(b) of the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111(b) and day, residential, travel, and troop camps for children (as defined by Rule 400.11101(1)(q) of the Michigan Administrative Code).
- (b) “Face mask” means a tightly woven cloth or other multi-layer absorbent material that closely covers an individual’s mouth and nose.
- (c) “Food service establishment” means that term as defined in section 1107(t) of the Food Law, 2000 PA 92, as amended, MCL 289.1107(t).
- (d) “Employee” means that term as defined in section 2 of the Improved Workforce Opportunity Wage Act, 2018 PA 337, as amended, MCL 408.932, and also includes independent contractors.
- (e) “Gathering” means any occurrence, either indoor or outdoor, where two or more persons from more than one household are present in a shared space.
- (f) “Household” means a group of persons living together in a shared dwelling with common kitchen or bathroom facilities. In dwellings with shared kitchen or bathroom facilities occupied by 20 or more unrelated persons, households are defined by individuals who share a bedroom.
- (g) “Organized sports” means competitive athletic activity requiring skill or physical prowess and organized by a sports organizer.

- (h) “Sports Organizer” means an institution, association, or other organization that sets and enforces rules to ensure the physical health and safety of all participants for an organized sport.
- (i) “Exercise facility” means a location in which individuals participate in individual or group physical activity, including gymnasiums, fitness centers, and exercise studios.
- (j) “Symptoms of COVID-19” means at least 1 of fever, uncontrolled cough, or atypical new onset of shortness of breath, or at least 2 of the following not explained by a known physical condition: loss of taste or smell, muscle aches, sore throat, severe headache, diarrhea, vomiting, or abdominal pain. Per section 1(h) of 2020 PA 238, this definition represents the latest medical guidance, and serves as the controlling definition.

2. General capacity limitations at gatherings.

(a) Indoor gatherings:

- (1) Are prohibited at residential venues, except where no more than 10 persons from no more than 2 households are gathered. Such gatherings should be held consistent with guidance issued by the Department of Health and Human Services for such gatherings;
- (2) Are prohibited at non-residential venues.

(b) Outdoor gatherings are permitted only as follows:

- (1) At residential venues, 25 or fewer persons are gathered, comprised of no more than 3 households;
- (2) At non-residential venues:
 - (A) 25 or fewer persons are gathered at a venue without fixed seating, and attendance is limited to 20 persons per 1,000 square feet, including within any distinct area within the event space;
 - (B) 25 or fewer persons are gathered at a venue with fixed seating, and attendance is limited to 20% of seating capacity of the venue.

(c) The limitations to gatherings in sections 2(a) and 2(b) do not apply to:

- (1) Incidental, temporary gatherings of persons in a shared space, such as frequently occur in an airport, bus station, exercise facility, food service establishment, shopping mall, or public pool, except as prohibited in section 3;
- (2) Gatherings between an employee and a customer for the purpose of receiving services;
- (3) Workplace gatherings that occur consistent with the Emergency Rules issued by MIOSHA on October 14, 2020;
- (4) Voting or official election-related activities;
- (5) Training of law enforcement, correctional, medical, or first responder personnel, insofar as those activities cannot be conducted remotely;

- (6) Education and support services at public, nonpublic, and boarding schools serving students in prekindergarten through grade 8;
 - (7) Children in a child-care organization or camp setting;
 - (8) Persons traveling on a school bus or other public transit;
 - (9) Gatherings for the purpose of medical treatment, including mental health and substance use disorder support services;
 - (10) Gatherings of up to 25 persons for the purpose of a funeral;
 - (11) Residential care facilities, which are subject to the October 21 epidemic order entitled "Requirements for Residential Facilities," or any replacement of that order.
- (d) As a condition of hosting a gathering under this order, organizers and venues must design the gathering to encourage and maintain physical distancing, and must ensure that persons not part of the same household maintain 6 feet of distance from one another to the extent possible.

3. Gathering restrictions for particular types of facilities.

- (a) Gatherings, are prohibited in the following settings:
 - (1) Entertainment venues, including: auditoriums; arenas; banquet halls; cinemas; conference centers; concert halls; performance venues; sporting venues; stadiums; and theaters;
 - (2) Recreational facilities and places of public amusement, including: amusement parks; arcades; bingo halls; bowling alleys; casinos; night clubs; skating rinks; strip clubs; water parks; and trampoline parks;
- (b) Gatherings are permitted at food service establishments under the following conditions:
 - (1) Persons are not gathered indoors except in custodial settings, medical facilities, school and university cafeterias, shelters, and soup kitchens. If attendees are seated at tables, persons must be 6 feet apart, or members of a household may share a table and tables must be spaced a minimum of 6 feet apart;
 - (2) Persons participating in outdoor dining are seated no more than 6 to a table and tables are spaced a minimum of 6 feet apart.
- (c) Nothing in this section shall be construed to prohibit the use of these facilities for public health or other emergency purposes.

4. Gathering restrictions for facilities. In addition to the gathering limitations set forth elsewhere in this order, the following limitations apply to gatherings in the following facilities:

- (a) A gathering at a retail store, library, or museum must not exceed 30% of total occupancy limits established by the State Fire Marshal or a local fire marshal. Nevertheless, a retail store, library, or museum may permit one customer at a time to enter if strict adherence to the 30% total occupancy limit would otherwise result in closure.

- (1) Retail stores must establish lines to regulate entry and checkout, with markings for patrons to enable them to stand at least six feet apart from one another while waiting.
- (b) At exercise facilities:
 - (1) Gatherings must not exceed 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal; and
 - (2) There must be at least 12 feet of distance between each occupied workout station;
 - (3) Gatherings for group fitness activities or classes are prohibited.
- (c) Gatherings in waiting rooms at outpatient health-care facilities, veterinary clinics, and other businesses are prohibited unless the facility implements a system to ensure that persons not of the same household maintain 6 feet of distance. To the extent possible, this system must include a policy that patients wait in their cars for their appointments to be called.
- (d) A gathering at an indoor or outdoor pool not otherwise prohibited by this order must not exceed 25% of bather capacity limits described in Rule 325.2193 of the Michigan Administrative Code.
- (e) In facilities offering non-essential personal care services, including hair, nail, tanning, massage, traditional spa, tattoo, body art, and piercing services, and similar personal care services, gatherings are only permitted to the extent that services do not involve the removal of face masks. All services must be provided by appointment, and gatherings in waiting areas are prohibited.

5. Schools, colleges, and universities.

- (a) Gatherings at public, nonpublic, and boarding schools for the purpose of conducting in-person instruction, sports, and extracurricular activities serving pupils in grades 9 through 12 are prohibited, except for in-person instruction of pupils who are English Language Learners or participants in special education services;
- (b) Gatherings at public, nonpublic, and boarding schools for the purpose of conducting in-person instruction of pupils in prekindergarten through grade 8 are permitted, subject to local health department and school district decisions on remote learning. Gatherings for the purpose of sports and extracurricular activity are prohibited;
- (c) Gatherings at public, nonpublic, and boarding schools are permitted for the purpose of providing services to students in need, including food distribution, access to internet connectivity, physical and mental health care services, and child care;
- (d) Gatherings at colleges and universities are prohibited for the purpose of holding in-person classes, extracurricular events, or other events are prohibited, except as permitted in sections 2 and 6 of this order.

6. Organized sports gathering restrictions.

- (a) Gatherings for the purpose of organized sports are prohibited unless all participants, teams, and venues comply with the enhanced testing regimen specified in the Additional Mitigation Measures for Safer Athletic Practice and Play without the use of Face Coverings section of [MDHHS guidance on Additional Measures for Safer Athletic Practice and Play](#).

Sports organizers complying with this section may host gatherings for the purpose of practice and competition notwithstanding the gathering prohibitions in sections 2 and 5(c).

(b) Sports organizers may not permit gatherings of spectators.

7. Face mask requirement at gatherings.

(a) All persons participating in gatherings are required to wear a face mask.

(b) As a condition of gathering for the purpose of transportation, transportation providers must require all staff and patrons to use face masks, and must enforce physical distancing among all patrons to the extent feasible.

(c) Except as provided elsewhere in this order, a person responsible for a business, store, office, government office, school, organized event, or other operation, or an agent of such person, must prohibit gatherings of any kind unless the person requires individuals in such gatherings (including employees) to wear a face mask, and denies entry or service to all persons refusing to wear face masks while gathered.

(d) A person responsible for a business, store, office, government office, school, organized event, or other operation, or an agent of such person, may not assume that someone who enters the facility without a face mask falls within one of the exceptions specified in section 8 of this order, including the exception for individuals who cannot medically tolerate a face mask. An individual's verbal representation that they are not wearing a face mask because they fall within a specified exception, however, may be accepted.

(e) A person responsible for a child-care organization or camp, or an agent of such person, must not allow gatherings unless face masks are worn by all staff. Children must wear face masks as indicated below:

(1) All children 2 years and older when on a school bus or other transportation provided by the child-care organization or camp;

(2) All children 4 years and older when in indoor hallways and indoor common areas;

(3) All children 5 years and older when in classrooms, homes, cabins, or similar indoor settings.

8. Exceptions to face mask requirements. Although a face mask is strongly encouraged even for individuals not required to wear one (except for children under the age of 2), the requirement to wear a face mask in gatherings as required by this order does not apply to individuals who:

(a) Are younger than 5 years old, outside of child-care organization setting (which are subject to requirements set out in section 7(e));

(b) Cannot medically tolerate a face mask;

(c) Are eating or drinking while seated at a food service establishment or at a private residence;

(d) Are exercising outdoors and able to consistently maintain 6 feet of distance from others;

(e) Are swimming;

(f) Are receiving a medical service for which removal of the face mask is necessary;

- (g) Are asked to temporarily remove a face mask for identification purposes;
- (h) Are communicating with someone who is deaf, deafblind, or hard of hearing and whose ability to see the mouth is essential to communication;
- (i) Are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a face mask would seriously interfere in the performance of their public safety responsibilities;
- (j) Are at a polling place for purposes of voting in an election;
- (k) Are engaging in a religious service; or
- (l) Are giving a speech for broadcast or to an audience, provided that the audience is at least 6 feet away from the speaker.

9. Contact tracing requirements for particular gatherings.

- (a) Gatherings are prohibited at the following facilities unless the facility maintains accurate records, including date and time of entry, names of patrons, and contact information, to aid with contact tracing, and denies entry for a gathering to any visitor who does not provide, at a minimum, their name and phone number:
 - (1) All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal care services;
 - (2) Exercise facilities.
- (b) All businesses or operations that provide in-home services, including cleaners, repair persons, painters, and the like must not permit their employees to gather with clients unless the business maintains accurate appointment records, including date and time of service, name of client, and contact information, to aid with contact tracing.
- (c) Upon request, businesses, schools, and other facilities must provide names and phone numbers of individuals with possible COVID-19 exposure to MDHHS and local health departments to aid in contact tracing and case investigation efforts.
- (d) Data collected under this section:
 - (1) Must not be sold, or used for sales or marketing purposes without the express consent of each patron;
 - (2) Must be protected as confidential information to the fullest extent of the law;
 - (3) Must not be provided to law enforcement or immigration officials except upon receipt of a lawful subpoena from a court or other lawful court order;
 - (4) Must be retained for 28 days by the collecting organization, after which time the data must be destroyed. If facilities use existing data to fulfill this requirement, they may instead follow their own pre-existing data retention and destruction policies at the conclusion of the 28-day retention period.

10. Implementation.

- (a) Nothing in this order modifies, limits, or abridges protections provided by state or federal law for a person with a disability.
- (b) Under MCL 333.2235(1), local health departments are authorized to carry out and enforce the terms of this order.
- (c) Law enforcement officers, as defined in the Michigan Commission on Law Enforcement Standards Act, 1965 Public Act 203, MCL 28.602(f), are deemed to be “department representatives” for purposes of enforcing this order, and are specifically authorized to investigate potential violations of this order. They may coordinate as necessary with the appropriate regulatory entity and enforce this order within their jurisdiction.
- (d) Neither a place of religious worship nor its owner is subject to penalty under this order for allowing religious worship at such place. No individual is subject to penalty under this order for engaging in religious worship at a place of religious worship.
- (e) Consistent with MCL 333.2261, violation of this order is a misdemeanor punishable by imprisonment for not more than 6 months, or a fine of not more than \$200.00, or both.
- (f) Nothing in this order affects any prosecution or civil citation based on conduct that occurred before the effective date of this order.
- (g) 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, or protections guaranteed by the state or federal constitution under these emergency circumstances.
- (h) Consistent with any rule or emergency rule promulgated and adopted in a schedule of monetary civil penalties under MCL 333.2262(1) and applicable to this order, violations of this order are also punishable by a civil fine of up to \$1,000 for each violation or day that a violation continues.
- (i) If any provision of this order is found invalid by a court of competent jurisdiction, whether in whole or in part, such decision will not affect the validity of the remaining part of this order.
- (j) It is not a violation of this order for a person to enter a facility otherwise closed for gatherings if they are entering solely for the purpose of using restroom facilities.

This order takes effect on November 18, 2020 at 12:01 AM, at which time the October 29, 2020, order entitled Gatherings and Face Mask Order is rescinded. This order remains in effect through December 8, 2020 at 11:59 PM. Persons with suggestions and concerns are invited to submit their comments via email to COVID19@michigan.gov.

Date: November 15, 2020



Robert Gordon, Director

Michigan Department of Health and Human Services