

PINCKNEY

Will Pinckney rezone a shuttered elementary school for marijuana business?

Jennifer Timar Livingston Daily

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A Howell developer who wants to transform a shuttered elementary school into what could become Livingston County's first-ever marijuana business will attempt to convince Pinckney village planners at a Monday meeting.

Pinckney voters ended a ban on recreational marijuana businesses in November. The village will be the first community in the county to allow marijuana establishments.

Shortly after voters knocked down the ban, Chris Bonk emerged with a proposed plan to renovate the vacant Pinckney Elementary School and also construct a 50,000-square-foot facility on the property on M-36. Bonk expressed interest in establishing a marijuana growing and processing facility that could also have a sales component.

While would-be marijuana business developers will have to wait until March to apply for licenses from the village, planners are considering Bonk's request to conditionally rezone the property.

The Village of Pinckney Planning Commission is set to discuss the rezoning request at 7 p.m. Monday. Village Council would have the final say.

"With the changes in the works for marijuana establishments, this site checks all the boxes other than its current zoning," Bonk said to village officials in his rezoning request. "It is located on the outside edge of the village, between a graveyard and storage unit. It is on the main road through town."

The village will allow several types of marijuana businesses on land zoned for research, technology and office uses, or RTO uses, including a growing operation, processing facility, microbusiness, safety compliance facility and secure transporter facility. In addition, certain

types of businesses, including one marijuana store, would be allowed in the village's secondary business district east of the village center.

RELATED: Shuttered school among Pinckney sites eyed for marijuana businesses

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The vacant school property is currently zoned for high-density residential use.

Bonk previously proposed a different plan for the vacant school. His original intention was for a group home for people with disabilities, which would have featured a café, apartments, a community center, store and therapy services. He scrapped that plan to pursue a marijuana facility.

"One of the comments from planning commission last time I proposed the group home idea was that they thought its location would help bring traffic through town, which would bring additional revenue to businesses west of Howell Street on Main Street; kind of like a bookend of sorts. My new proposal will help to do the same," Bonk wrote in his rezoning request.

Bonk said this week he is excited to share his plans with the community but declined to comment further before Monday's meeting.

He had to tweak his rezoning request earlier this month after village planners rejected his request to rezone outright the property for any permitted RTO uses, which would have allowed a number of other special uses including things like a machinery shop or dry cleaning plant should Bonk's plan for a marijuana facility fall through.

He came back to the village with a new request for a conditional rezoning, which would only allow a marijuana facility on the property.

He has also offered to sell some of the land to the village for a larger cemetery.

'Boomlet' expected

Village President Rebecca Foster said a lot of people have expressed interest in establishing marijuana businesses in Pinckney, especially retail.

She questioned how long term the impact on the village would be.

"I think initially, because we're the only municipality in the county allowing it, we'll see a boomlet. Is it going to revitalize downtown? No. It's like getting a bottle of wine at the drug store. They are going to get it and go. Marijuana businesses will eventually be allowed in different places in the county, Howell and Brighton, and that will be the end of our boom," Foster said.

She said several companies have tried to apply for marijuana business licenses even though the village is not yet accepting applications.

"We have had companies that basically sent us their version of an application. It's like, that's great except it doesn't count. I know there has been a lot of interest in a variety of properties. I haven't heard about any closings. I'm sure there are a lot of conversations going on in our secondary business district, especially for retail."

Pinckney voters approved the measure to end the ban on marijuana businesses, 54.3% to 45.7%, on Nov. 3. The proposal was placed on the ballot after a court battle by Jobs for Pinckney, a group led by Oakland County resident Sam Pernick.

Village officials made significant changes to an earlier draft of an ordinance created by Jobs for Pinckney. Changes included a decision not to allow any businesses where people consume marijuana on-site.

"It was the most ridiculous ordinance we've ever since in terms of level of detail, lack of clarity, things in there that couldn't be in the village. There was a lot of stuff you don't put into an ordinance," Foster said.

The original version of the ordinance, as proposed to voters, required the village to set up an application process within 30 days of the election. Officials decided to postpone it until no sooner than March 1.

"A lot of administrative burden has been placed on us. We were trying to streamline it so a village of our size can do this," Foster said.

Contact Livingston Daily reporter Jennifer Timar at jtimar@livingstondaily.com. Follow her on Twitter @jennifer_timar.



Liv.Co UPDATE

Monthly News from the
Livingston County Commissioners



December 2020

Livingston County Board of Commissioners

District 1 - Kate Lawrence
(Board Vice-Chairwoman)

District 2 - William Green

District 3 - Wes Nakagiri

District 4 - Douglas G. Helzerman

District 5 - Vacant

District 6 - Robert J. Bezotte

District 7 - Carol S. Griffith
(Board Chairwoman)

District 8 - Jay Gross

District 9 - Gary Childs

"The mission of Livingston County is to be an effective and efficient steward in delivering quality services within the constraints of sound fiscal policy. Our priority is to provide mandated services which may be enhanced and supplemented to improve the quality of life for all who work, reside, and recreate in Livingston County."

The Board Adopts The 2021 Livingston County Budget

The Livingston County Board of Commissioners unanimously approved the 2021 Fiscal Year Budget on November 23. The General Fund budget comprises \$51.2 million of a \$95.6 million total budget. This is a decrease of \$694,000 compared to the current revised budget for all funds. Just under \$900,000 in capital improvements is planned for 2021 and \$1.2 million is appropriated for an additional payment to MERS for the County's pension plan. Livingston County will continue to operate with the lowest County millage rate in the state and the County's AAA bond rating was reaffirmed by Moody's in October. We are one of only five counties statewide to hold that rating. Although 2020 has been a challenging year in many ways, we enter 2021 on solid financial footing and we will continue to act prudently on behalf of our citizens. The creation of the County budget is truly a collaborative effort. Thank you to all the County employees that worked hard to assist in the creation of a balanced and responsible 2021 budget.

Monthly Meetings

All meetings will be held via Zoom.
The public may attend:

- Via Zoom (on-line meetings):
<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09>
- Via the Zoom app - **join a meeting**, with meeting number: **399 700 0062**

Enter the password:
LCBOC (ensure there are no spaces before or after the password)

- Dial by your location
+1 929 205 6099 US (New York)
Meeting ID: **399 700 0062**
Password: **886752**

12/23 - Finance Committee at 7:30 AM
followed by Full Board Meeting
at 8:30 AM and Personnel

1/4 - Full Board Meeting at 5:30 PM

The 2021 Board Schedule will be finalized at the January 4, 2021 Full Board meeting. A meeting schedule will be attached to the January 2021 edition of the Liv.Co Update.

2020 Year End Report and State of the County Address



Chairwoman, Carol Griffith, invites our community to take a look at Livingston County's 2020 Year End Report, available December 23rd, and the 2020 State of the County Address, available January 4th. Both can be found on the County's website: <https://www.livgov.com/communications/Pages/2020-State-Of-County-Address.aspx>. Both the Year End Report and State of the County Address review the challenges faced throughout 2020,

along with the many accomplishments of the County and larger community as a whole amidst adversity. As you look through the pages of the report or watch the Address, we sure you'll see that despite the challenges that the COVID-19 pandemic brought about, it also revealed that we are a community of people who truly care about one another. The unity that has characterized our County throughout the pandemic, our spirit of caring, the dedication to overcome and all obstacles to get things done, that is what makes Livingston County resilient, compassionate, and strong.

Resolutions Passed by the Board of Commissioners

- LETS will begin providing transportation services for Livingston County Community Mental Health Authority starting January 1, 2021. The agreement between LETS and Community Mental Health lasts until December 31, 2023.
- Mark Gatesman will be providing attorney services to the County's Adult Drug for one year, starting January 1, 2021. Ameer Tranbilsy, II, will be providing attorney services to the County's Juvenile Drug Treatment Court for the same timeframe.
- Livingston County Community Mental Health will provide inmate mental health services for the Livingston County Jail throughout 2021. Qualified Mental Health Professionals will provide 70 hours per week of mental health services such as case management, peer support, coordination of medication, and coping skill classes.
- Patrick Bridge has been appointed to the Community Mental Health Authority Board with a term expiring on December 31, 2022.
- EMS students from Lake Superior State University, Oakland Community College, and Dorsey Emergency Medical Academy will be able to complete their clinical rotations and field internships with Livingston County's EMS. This hands-on experience allows EMS students to complete their education requirements while developing necessary skills to become outstanding practitioners.
- The Board has approved the 2021 Memorandum of Agreement with MSU Extension, which allows for the continued presence of MSU Extension in the county, along with expansion of the 4-H program.
- 2021 non-profit contracts were approved for AAA-1B, Catholic Charities, OLSHA, and Senior Nutrition so that these vital agencies can provide services to Livingston County citizens.
- The Health Department has entered into an agreement with the Michigan Department of Environment, Great Lakes, and Energy to conduct environmental health services for programs such as Non-Community Public Water and Groundwater Monitoring.
- The Health Department has received grant funding from the Department of Licensing and Regulatory Affairs, Bureau of Medical Marijuana Regulation for education, communication, and outreach programs throughout 2021.
- A 20 year term ground lease agreement for Airport property with BWG Aviation, LLC, and a 5 year term ground lease agreement for Airport property with Howell Aero Services have been accepted. Both BWG Aviation and Howell Aero Services own hangars located at the Airport.
- The County's phone system will be replaced and upgraded through work with Logicalis Inc. The new telecommunication system will provide many benefits, one being improved remote work capacity with the ability for staff to make calls on laptops, desktops, and mobile devices using County telephone numbers and extensions.
- Safety is a core business function of LETS Transportation. The LETS Public Transportation Agency Safety Plan has been approved by the Board. The Plan complies with the Federal Transit Administration requirements and supports LETS' mission to provide safe and reliable transportation for the citizens of Livingston County.
- Amendments have been made to the County's Procurement Policy, as well as the Procurement Card Policy in an effort to gain additional operational efficiency and bring best practices into alignment. Comparable counties' procurement policies were recently reviewed and opinion was sought from Civil Counsel regarding proposed revisions.

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IMPORTANT CLIENT UPDATE

As you are likely aware, the State's Legislative Branch enacted and the Governor signed Senate Bill 1108 as 2020 Public Act 228, which modified the Open Meetings Act, 1976 PA 267 (OMA), effective October 16, 2020 and retroactive to March 18, 2020. The passage of 2020 Public Act 228 allowed for meetings of a public body to be held electronically or with remote participation under limited circumstances. (See attached Client Update dated October 20, 2020.)

The State Legislature revised provisions added to the OMA by 2020 Public Act 228 on December 22, 2020. Specifically, the State Legislative Branch enacted, and the Governor has signed into law, Senate Bill 1246 as 2020 Public Act 254 to address the continuation of remote attendance to meetings open to the public.

The following amendments to the OMA shall take immediate effect as of December 23, 2020:

- a. Public Meetings Held In-Person Before April 1, 2021: If a public body is to host meetings open to the public before April 1, 2021, the public body must do both of the following:
 - i. Ensure, to the extent feasible under the circumstances, adherence to social distancing and that mitigation measures recommended by the Centers for Disease Control and Prevention are taken for purposes of preventing the spread of COVID-19; and
 - ii. Adopt a heightened standard of cleaning and disinfecting facilities to limit participant exposure to COVID-19 as well as protocol to clean and disinfect the facilities in the event a positive COVID-19 case is traced back to the public body's meeting.
- b. Absence of Members of a Public Body: Public bodies are required to establish procedures to accommodate absent members of the public body due to 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 put the

personal health and/or safety of the public body or members of the public at risk if held in person.¹

- c. Electronic Public Meetings: Public bodies may hold wholly or partly electronic meetings by telephonic or video conferencing in the following circumstances:
- i. Before March 31, 2021² and retroactive to March 18, 2020 for any circumstance, including, but not limited to, the above circumstances requiring accommodation of absent members of a public body.
 - ii. On or after March 31, 2021³ through December 31, 2021 for only the above circumstances requiring accommodation of absent members of a public body. However, electronic meetings due to a local state of emergency or state of disaster may only be held if a member resides in the affected area or the public body at-large holds its meetings in the affected area.
 - iii. After December 31, 2021 only when a member is absent due to military duty.

Should you have questions, please do not hesitate to contact our Office.

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December 28, 2020

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¹ 2020 Public Act 254 revised 2020 Public Act 228 to include a state of disaster or emergency declared pursuant to a local ordinance, in addition to those declared under law or charter. It also replaced a “local official or local governing body” as individuals who may declare a state of emergency with a “local chief administrative officer”. Important to note is that 2020 Public Act 254 fails to define who qualifies as “a local chief administrative officer”, suggesting it was the State Legislature’s intention to define the term in line with MCL 141.422b(3), which means, among other things,

- a. a village manager or, if the village does not employ a manager, a village president; or
- b. a city manager or, if the city does not employ a manager, a city mayor; or
- c. a township manager or, if the township does not employ a manager, a township supervisor; or
- d. an elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, then the controller appointed pursuant to MCL 46.13b; or if the county has not appointed a controller, an individual designated by the county board of commissioners.

² Under 2020 Public Act 228, electronic meetings were permitted through December 31, 2020 for any circumstance.

³ Under 2020 Public Act 228, electronic meetings were permitted under limited circumstances beginning on January 1, 2021.

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IMPORTANT CLIENT UPDATE

EXECUTIVE ORDER STATUS

As you are likely aware, the Michigan Supreme Court issued an opinion Friday, October 2, 2020 in which the majority of the Justices agreed that the Governor's Executive Orders issued after April 30, 2020 were invalid as the law under which they were issued allowed an unconstitutional delegation of legislative authority to the Governor.

In essence, the federal District Court from the Western District of Michigan requested Certification from the Michigan Supreme Court regarding the appropriate interpretation of Michigan law being applied in a federal case challenging the Governor's Executive Orders. The parties to the federal case disputed the impact the Executive Orders had on limiting and regulating certain medical procedures by health care professionals. Therefore, the Certification Opinion was not a direct order as to a case before the Michigan Supreme Court; rather, it provided instruction to the federal District Court on the law that the federal Judge would need to apply in that federal lawsuit.

Following the Michigan Supreme Court's Certification Opinion, the Governor's Attorneys filed motions seeking immediate clarification that the Certification Opinion would not take effect until after the 21-day period had lapsed.¹ In response, the Michigan Supreme Court entered an Order on October 12, 2020 denying the stay of precedential effectiveness of its Certification Opinion, and also entered an order in the case filed by the State Legislature that nullified the Executive Orders relying on the same reasons as set out in the majority opinion in the Certification case.² This Opinion was expressly given immediate effect by the Court's majority.

Michigan Executive Branch Rules

In response to the Michigan Supreme Court's nullifying all of the Governor's Executive Orders effective after April 30, 2020, the following actions by the State's Executive branch have been taken to address COVID-19 pandemic:

- 1) The Michigan Department of Health and Human Services (MDHHS) issued an Emergency Order Under MCL 333.2253 on October 9, 2020 adopting regulations related

¹ It is normal practice for Michigan Supreme Court decisions not to take effect for 21 days unless the Michigan Supreme Court directs the Certification Opinion to have immediate effect.

² *House of Representatives and Senate v Governor*, Supreme Court Docket No. 161917 (October 12, 2020)

to COVID-19 mirroring many of the provisions in the prior Governor's Executive Orders on gatherings, capacity restrictions, face coverings, food service establishments, organized sports, the protection of employees in the workplace, and facility-specific contact tracing.³ Important for purposes of hosting public meetings, this Emergency Order permits indoor gatherings of up to 10 persons at non-residential venues, provided each person wears a face covering. For gatherings of more than 10 and up to 500 persons occurring at non-residential venues, the organizer is responsible for determining the max occupancy based on whether fixed seating is available. A copy of the Emergency Order is attached for your review as *Attachment 1*. The MDHHS Emergency Order provides that it is effective through October 30, 2020.

- 2) On October 14, 2020, the Michigan Department of Labor and Economic Opportunity (LEO), Michigan Occupational Safety and Health Administration filed Emergency Rules regarding COVID-19 with the Michigan Secretary of State. These Emergency Rules were promulgated by the Director of LEO to establish clear requirements for employers in an effort to control, prevent, and mitigate the spread of COVID-19 among their employees. Moving forward, employers will be required to, among other things:
 - a. Evaluate their employees' routines and reasonably anticipated tasks and procedures to determine what, if any, risk or exposure the employees may face; and
 - b. Develop and implement written COVID-19 preparedness and response plans in line with current CDC guidance and recommendations; and
 - c. Promote basic infection prevention measures in the workplace by requiring employees to stay home and isolate if sick; establishing disinfection procedures if it is suspected or confirmed that employees, customers, or visitors have a known case of COVID-19; and creating a teleworking policy prohibiting in-person work to the extent an employee's work can be completed remotely; and
 - d. Conduct daily pre-entry self-screenings of employees and contractors entering the workplace; and
 - e. Designate worksite COVID-19 safety coordinators to enforce the employers' rules; and
 - f. Provide personal protective equipment to employees appropriate to the exposure risk associated with their respective jobs; and
 - g. Train all employees on workplace infection-control practices, proper use of personal protective equipment, notification procedures of suspected or confirmed exposure to COVID-19, and reporting unsafe working conditions; and

³ The MDHHS initially adopted an Emergency Order under MCL 333.2253 on October 5, 2020, which has since been rescinded and replaced by the MDHHS's October 9, 2020 Emergency Order.

- h. Maintain records of all trainings, screening protocols, and records of required notifications.

Most of these regulations again nearly mirror requirements in the nullified Executive Orders.⁴ These new Emergency Rules are to be in effect for a six (6) month duration per their provisions.

A copy of the Emergency Rules is attached for your review as *Attachment 2*.

COVID-19 Legislation

In addition to the steps taken by the State's Executive branch, a Public Act on the Open Meetings Act, 1976 PA 267 (OMA), has been enacted by the Legislature and signed into law by the Governor since the recent Supreme Court decisions relating to COVID-19 issues; and several other COVID-19 related laws are awaiting action by the Governor. This legislation includes:

- 1) One of the major issues raised by the nullification of the Executive Orders after April 30, 2020, was the impact on the OMA and the provisions within the prior Executive Orders authorizing remote public meetings. On October 16, 2020, the Governor signed Senate Bill 1108 as 2020 Public Act 228, which modifies the OMA, effective immediately and retroactively, to allow the following:
 - a. Absence of Members of a Public Body: Public bodies are required to establish procedures to accommodate absent members of the public body due to military duty; a medical condition; or a statewide or local state of emergency or state of disaster declared by the governor, a local official, or a local governing body that would put the personal health and/or safety of the public body or members of the public at risk if held in person. Procedures to accommodate the absent member must include providing a mechanism for 2-way communication and a requirement the absent member(s) announce at the beginning of the meeting that they will be participating remotely. If the member is absent for any purpose other than those outlined herein, the member must also identify the county, city, township, or village and state where they are participating from. The public shall be notified of the member's absence as well as how to reach the member in advance of the meeting.
 - b. Electronic Public Meetings: Public bodies may hold wholly or partly electronic meetings by telephonic or video conferencing in the following circumstances:
 - i. Before January 1, 2021 and retroactive to March 18, 2020 for any circumstance, including, but not limited to, the above circumstances requiring accommodation of absent members of a public body.
 - ii. On or after January 1, 2021 through December 31, 2021 for only the above circumstances requiring accommodation of absent members of a public

⁴ Executive Order 2020-184: *Safeguards to Protect Michigan's Workers From COVID-19*, issued September 25, 2020, was the most recent Executive Order from the Governor on these issues.

body. However, electronic meetings due to a local state of emergency or state of disaster may only be held if a member resides in the affected area or the public body at-large holds its meetings in the affected area.

- iii. After December 31, 2021 only when a member is absent due to military duty.

Two-way communication is required so that members of the public body can hear and be heard by one another, and so that public participants can hear and be heard by members of the public body and other members of the public.⁵ Except as otherwise provided, a physical place is not required for an electronic meeting to be held, and electronic participation by a member of a public body or member of the public is considered present and in attendance at the meeting.

Advance notice of an electronic meeting must be provided no less than 18 hours before the meeting begins, and it must explain why the meeting is being held electronically, how members of the public may participate, how members of the public may contact members of the public body to provide input before the meeting, and how persons with disabilities may participate. If there is an agenda, it must be made available to the public at least 2 hours before the electronic meeting begins, not including subsequent amendments made at the meeting. Additionally, members of the public will not be required to register or provide their name or other information as a condition precedent to attendance other than mechanisms established or required to permit the person to participate in public comment.

- 2) A number of other bills have been adopted by the Legislature and presented to the Governor on COVID-19 related issues that may be forthcoming in the near future, including bills related to matter previously addressed in the prior Executive Orders, such as bills on unemployment benefits (SB 0886), and liability protection for COVID-19 workers and reopening businesses (HB 6030, HB 6031, HB 6032, HB 6101, HB 6159).

Should you have questions, please do not hesitate to contact our Office.

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October 20, 2020

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⁵ Members of the public will, however, be excluded from participating in a closed session of the public body held electronically if the closed session is convened and held in compliance with the OMA.

ATTACHMENT 1



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

ROBERT GORDON
DIRECTOR

October 9, 2020

Emergency Order Under MCL 333.2253 – Gathering Prohibition and Face Covering Order

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. On March 10, 2020, the Michigan Department of Health and Human Services (“MDHHS”) identified the first two presumptive-positive cases of COVID-19 in Michigan. Throughout the pandemic, Michigan has used a range of public health tools and guidance to contain the spread of COVID-19 and protect the public health, including via the Governor’s authority under the Emergency Management Act and the Emergency Powers of Governor Act. On Friday, October 2, 2020, the Michigan Supreme Court concluded that the Governor was not authorized to issue executive orders addressing COVID-19 after April 30, 2020.

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 those numbers down dramatically, greatly reducing the loss of life. Although fewer than 100 new cases per day were reported in mid-June, cases have increased since that time, and recently nearly 1,000 new cases have been reported per day. To protect vulnerable individuals, ensure the health care system can provide care for all health issues, and prevent spread in schools as we head into the influenza season, we must not permit the spread of COVID-19 to increase. This necessitates continued use of mitigation techniques to restrict gatherings and require procedures in order to reduce the spread of the virus. In the absence of the Governor’s executive orders, it is necessary to issue orders under the Public Health Code addressing these topics.

Michigan law imposes on 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).

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 that 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.”); see also *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 instituting mitigating measures like face coverings, to prevent ill or infected persons from infecting others.

Considering the above, and upon the advice of scientific and medical experts employed by MDHHS, I have concluded pursuant to MCL 333.2253 that the COVID-19 pandemic continues to constitute an epidemic in Michigan. I further conclude that control of the epidemic is necessary to protect the public health and that it is necessary to 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 organizations” 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 of the Michigan Administrative Code).
- (b) “Close contact” means being within six feet of an individual for fifteen minutes or longer.
- (c) “Face covering” means a covering that covers at least the nose and mouth.
- (d) “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).
- (e) “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.
- (f) “Gathering” means any occurrence where two or more persons from more than one household are present in a shared space.
- (g) “Organized sports” means competitive athletic activity requiring skill or physical prowess and organized by an institution or by an association that sets and enforces rules to ensure the physical health and safety of all participants (“sports organizer” or “sports organizers”).
- (h) “Region 6” means that region as defined in Attachment A to this order.
- (i) “Symptoms of COVID-19” means fever, an uncontrolled cough, new onset of shortness of breath, or at least two of the following not explained by a known medical or physical condition: loss of taste or smell, muscle aches, sore throat, severe headache, diarrhea, vomiting, or abdominal pain.

2. Attendance limitations at gatherings.

- (a) The restrictions imposed by this section do not apply to the incidental gathering of persons in a shared space, including an airport, bus station, factory floor, food service establishment, shopping mall, public pool, or workplace.
- (b) Gatherings are permitted only as follows:
 - (1) Indoor gatherings of up to 10 persons occurring at a residence are permitted (face coverings are strongly recommended for such gatherings);

- (2) Indoor gatherings of up to 10 persons occurring at a non-residential venue are permitted provided each person at the gathering wears a face covering except as provided in section 6 of this order;
- (3) Indoor gatherings of more than 10 and up to 500 persons occurring at a non-residential venue are permitted only to the extent that the organizers and venue:
 - (A) In venues with fixed seating, limit attendance to 20% of seating capacity of the venue, provided however that gatherings at up to 25% of seating capacity are permitted in Region 6;
 - (B) In venues without fixed seating, limit attendance to 20 persons per 1,000 square feet in each occupied room, provided however that gatherings of up to 25 persons per 1,000 square feet in each occupied room are permitted in Region 6;
 - (C) Require that each person at the gathering wears a face covering except as provided in section 6 of this order.
- (4) Outdoor gatherings of up to 100 persons occurring at a residence are permitted (face coverings are strongly recommended for such gatherings);
- (5) Outdoor gatherings of up to 100 persons occurring at a non-residential venue are permitted provided that each person at the gathering wears a face covering except as provided in section 6 of this order;
- (6) Outdoor gatherings of more than 100 and up to 1,000 persons occurring at a non-residential venue with fixed seating are permitted only to the extent that the organizers and venue:
 - (A) In venues with fixed seating, limit attendance to 30% of seating capacity;
 - (B) In venues without fixed seating, limit attendance to 30 persons per 1,000 square feet, including within any distinct area within the event space;
 - (C) Require that each person at the gathering wear a face covering except as provided in section 6 of this order.
- (c) Gatherings are permitted for the following purposes notwithstanding the requirements of subsection (b) of this section:
 - (1) Voting or election-related activities at polling places;
 - (2) Training of law enforcement, correctional, medical, or first responder personnel, insofar as those activities cannot be conducted remotely;
 - (3) Gatherings for the purpose of engaging in organized sports held in accordance with section 8 of this order;
 - (4) Students in a classroom setting or children in a daycare setting.
- (d) Organizers and venues hosting gatherings permitted under subsection (b) of this section must ensure that persons not part of the same household maintain six feet of distance from one another, including by designing the gathering to encourage and maintain distancing.

3. **Capacity restrictions.** In addition to the attendance limitations imposed by section 2 of this order, the following gathering restrictions apply:
- (a) Except in Region 6, a gathering at a retail store, library, or museum may not exceed 50% of total occupancy limit established by the State Fire Marshal or a local fire marshal.
 - (b) Gatherings at recreational sports and exercise facilities, such as gymnasiums, fitness centers, recreation centers, exercise studios, bowling centers, roller rinks, ice rinks, and trampoline parks are prohibited under any of the following circumstances:
 - (1) If they exceed 25% of the total occupancy limits established by the State Fire Marshal or a local fire marshal;
 - (2) If there is less than six feet of distance between each workout station.
 - (c) Gatherings in waiting rooms at outpatient health-care facilities, veterinary clinics, personal care services, and other businesses are prohibited unless the facility implements a system to ensure that persons not of the same household maintain six feet of distance (this system should include a policy that patients wait in their cars for their appointment to be called, if possible).
 - (d) Gatherings at professional sports and entertainment facilities, including arenas, cinemas, concert halls, performance venues, sporting venues, and stadiums and theaters, are prohibited unless the venue is designed to ensure that patrons not of the same household maintain six feet of distance (e.g. stagger group seating upon reservation, close off every other row, etc.).
 - (e) Gatherings at outdoor pools may not exceed 50% of bather capacity limits described in Rule 325.2193 of the Michigan Administrative Code.
 - (f) Gatherings at indoor pools may not exceed 25% of bather capacity limits described in Rule 325.2193 of the Michigan Administrative Code.
 - (g) Gatherings at non-tribal casinos may not exceed 15% of total occupancy limits established by the State Fire Marshal or a local fire marshal.

4. **Protection of workers.**

- (a) Gatherings of employees in the workplace are prohibited under any of the following circumstances:
 - (1) Except in Region 6, if not strictly necessary to perform job duties, provided however that, where gatherings are necessary, employees must still maintain six feet of distance from one another where practicable;
 - (2) If employees not otherwise required to wear face coverings cannot maintain six feet of distance from others;
 - (3) If employees not otherwise required to wear face coverings occupy the same indoor shared space, such as conference rooms, restrooms, and hallways;
- (b) Employees who are subject to a recommendation to isolate or quarantine consistent with CDC guidance; have been instructed to remain home by a health or public health professional; or who are awaiting a COVID-19 test or the results of a COVID-19 test after having symptoms of COVID-19, must not be present in a gathering at work until the

employee is advised by a health or public health professional that they may return to work, or the following conditions are met:

- (1) 24 hours have passed since the resolution of fever without the use of fever-reducing medications; and
 - (2) 10 days have passed since their symptoms first appeared or since they were administered a COVID-19 test that yielded the positive result, if applicable; and
 - (3) Other symptoms have improved.
- (c) Employers must not require workers to gather with other persons at work in violation of this order.
- (d) All businesses or operations that require their employees to gather with other persons for work must conduct a daily entry self-screening protocol for all employees or contractors entering the workplace, including, at a minimum, a questionnaire covering symptoms of COVID-19 and suspected or confirmed exposure to people with possible COVID-19.

5. Face covering requirement at gatherings.

- (a) A person responsible for a business, government office, school, or other operation, or an agent of such person, must not allow indoor gatherings of any kind unless they require individuals in such gatherings (including employees) to wear a face covering, subject to the exceptions in section 6 of this order. For schools in Region 6, the wearing of face coverings is strongly recommended, but not required.
- (b) A person responsible for a business, government office, school, or other operation, or an agent of such person, may not assume that someone who enters the operation without a face covering falls in one of the exceptions specified in section 6 of this order, including the exception for individuals who cannot medically tolerate a face covering. An individual's verbal representation that they are not wearing a face covering because they fall within a specified exception, however, may be accepted.
- (c) All child-care organizations must not permit gatherings unless face coverings are worn by:
- (1) All staff and all children 2 years and older when on a school bus or other transportation provided by the child-care organization or camp;
 - (2) All staff and all children 4 years and older when in indoor hallways and common areas. Face coverings should be encouraged for children 2 years and older when in indoor hallways; and
 - (3) All staff and all children 5 years and older when in classrooms, homes, cabins, or similar indoor settings. Face coverings should be encouraged for children 2 years and older when in these settings.
- (d) A person responsible for establishments open to the public, or an agent of such person must:
- (1) Post signs at entrances instructing customers of their legal obligation to wear a face covering when inside the store; and
 - (2) Post signs at entrances informing customers not to enter if they are or have recently been sick.

6. **Exceptions to face covering requirements.** Although a face covering 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 covering in sections 2, 5 and 6 of this order do not apply to individuals who:
- (a) Except as otherwise provided in section 5 of this order, are younger than 5 years old (and, per guidance from the CDC, children under the age of 2 should not wear a face covering);
 - (b) Cannot medically tolerate a face covering;
 - (c) Are eating or drinking while seated at a food service establishment;
 - (d) Are exercising outdoors and able to consistently maintain six feet of distance from others;
 - (e) Are swimming;
 - (f) Are receiving a service for which temporary removal of the face covering is necessary;
 - (g) Are entering a business or are receiving a service and are asked to temporarily remove a face covering 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 covering 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;
 - (l) Are giving a speech for broadcast or to an audience, provided that the audience is at least six feet away from the speaker;
7. **Food service establishments.** Food service establishments must prohibit gatherings in all the following circumstances:
- (a) In indoor common areas in which people can congregate, dance, or otherwise mingle;
 - (b) If there is less than six feet of distance between each party;
 - (c) If they exceed 50% of normal seating capacity;
 - (d) Anywhere alcoholic beverages are sold for consumption onsite, unless parties are seated and separated from one another by at least six feet, and do not intermingle.
 - (e) If they involve any persons not seated at a table or at the bar top (customers must wait outside the food service establishment if table or bar top seating is unavailable);
 - (f) Until the food service establishment has been deep cleaned consistent with Food and Drug Administration and CDC guidance, in the event that an employee of the food service establishment is confirmed positive for COVID-19 or shows symptoms of COVID-19 while at work.

8. **Organized sports.** Gatherings for the purpose of organized sports are permitted in accordance with this section. Organizers and venues of organized sports must ensure that:
- (a) Athletes wear a face covering (except when swimming) or consistently maintain six feet of social distance (except for occasional and fleeting moments) when training for, practicing for, or competing in an organized sport. For example, an athlete participating in a football, soccer, or volleyball game would not be able to consistently maintain six feet of distance, and therefore would need to wear a face covering. Sports organizers must ensure that athletes comply with this section for each organized sporting event.
 - (b) They consider the [guidance](#) issued by this Department regarding how a sport can be played safely.
 - (c) For organized sports competitions, sports organizers must ensure either that the live audience is limited to the guests of the athletes (requiring face coverings for non-athletes consistent with section 6), with each athlete designating up to two guests, or that the event complies with gathering requirements of section 2(b) in this order.
 - (d) For indoor organized sports, sports organizers must ensure that no concessions are sold at the venue.
 - (e) Notwithstanding any other provision of this order, professional sports leagues and teams, including professional athletes engaged in individual sports, may engage in professional sports operations, provided that:
 - (1) The activities are conducted under a COVID-19 safety plan that is consistent with any guidance from the CDC and this Department; and
 - (2) Participants maintain six feet of distance from one another to the extent compatible with the sporting activity.

9. **Contact Tracing.**

- (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) Sports and entertainment facilities (except outdoor, unticketed sporting events), 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 centers, skating rinks, and trampoline parks;
 - (3) Gymnasiums, fitness centers, recreation centers, exercise facilities, exercise studios, bowling centers, roller rinks, ice rinks, and like 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.

10. Implementation.

- (a) Nothing in this order should be taken to modify, limit, or abridge 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) The October 5, 2020 order entitled Gathering Prohibition and Mask Order is rescinded. Nothing in this order shall be construed to affect any prosecution based on conduct that occurred before the effective date of this order.
- (g) 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 punishable by a *civil* fine of up to \$1,000 for each violation or day that a violation continues.
- (h) 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.

This order is effective immediately, and remains in effect through October 30, 2020. Persons with suggestions and concerns are invited to submit their comments via email to COVID19@michigan.gov.

Date: October 9, 2020



Robert Gordon, Director
Michigan Department of Health and Human Services

ATTACHMENT 2

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

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

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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

Attachment A

Region definitions. For purposes of this order, Michigan comprises eight separate regions.

- (a) Region 1 includes the following counties: Monroe, Washtenaw, Livingston, Genesee, Lapeer, Saint Clair, Oakland, Macomb, and Wayne.
- (b) Region 2 includes the following counties: Mason, Lake, Osceola, Clare, Oceana, Newaygo, Mecosta, Isabella, Muskegon, Montcalm, Ottawa, Kent, and Ionia.
- (c) Region 3 includes the following counties: Allegan, Barry, Van Buren, Kalamazoo, Calhoun, Berrien, Cass, Saint Joseph, and Branch.
- (d) Region 4 includes the following counties: Oscoda, Alcona, Ogemaw, Iosco, Gladwin, Arenac, Midland, Bay, Saginaw, Tuscola, Sanilac, and Huron.
- (e) Region 5 includes the following counties: Gratiot, Clinton, Shiawassee, Eaton, and Ingham.
- (f) Region 6 includes the following counties: Manistee, Wexford, Missaukee, Roscommon, Benzie, Grand Traverse, Kalkaska, Crawford, Leelanau, Antrim, Otsego, Montmorency, Alpena, Charlevoix, Cheboygan, Presque Isle, and Emmet.
- (g) Region 7 includes the following counties: Hillsdale, Lenawee, and Jackson.
- (h) Region 8 includes the following counties: Gogebic, Ontonagon, Houghton, Keweenaw, Iron, Baraga, Dickinson, Marquette, Menominee, Delta, Alger, Schoolcraft, Luce, Mackinac, and Chippewa.