

3. Covid-19 Regulations and Real Estate: Where Are We Now?

If you've been monitoring the news, there has been an increase in discussions surrounding reentry to offices and mask requirements. With vaccinations becoming more prevalent and available, and Covid-19 cases in moderate decline, there has been increased optimism that many of the gathering and workplace limitations will be relaxed. Along with that possibility, there will need to be forthcoming guidance from MDHHS and MIOSHA on how best to navigate future regulatory changes. The purpose of this communication is to summarize the current regulations on real estate activity as of today.

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

1. The limitation on residential gatherings continues to be set at 15 persons from no more than 3 households.
2. Open houses can be held; however, no more than three households (the listing agent and two prospective buyer households) can view the home at one time. We continue to advocate to DHHS for additional flexibility for real estate gatherings. However, the current position from DHHS remains outlined in an FAQ on its website:

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

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

3. Seller clients may still authorize non-traditional open houses whereby the listing agent can advertise in advance the parameters for viewing the property. Such parameters would need to require some form of sign-in with the listing agent once the prospective buyer has arrived, and that prospective buyers wait in their vehicle until they are notified that it is their turn to tour the home. This way, the listing agent is able to ensure that only three households are in the residence at a given time. Of course, it must also be an arrangement that the Seller has authorized.
4. **Masks:** The most recent MDHHS order does include a very narrow exception to the mask requirement in residential settings if all attendees are vaccinated. We have heard from some members that this exception could also cover interactions between Realtors® and their clients/customers during home showings and open houses. While we don't disagree with this interpretation, it seems to us that as a practical matter, this exception better suits a traditional residential setting where friends and/or family members from different households are gathering. Determining a person's vaccine status is a particularly sensitive inquiry. Persons who invite others into their homes socially can determine whether and how to require proof of vaccine status. In the case of home showings, Realtors® would be in a difficult position – dealing on one hand with potential buyers who may resent the intrusion and on the other hand with sellers who are looking to the Realtor® to verify the vaccine status of each and every buyer who visits their home. Given that difficult position, the preferable course may be to simply keep requiring masks during residential showings until MDHHS guidance is more clearly articulated.
5. The limitation on indoor non-residential gatherings remains at 25 persons, which means that in-person gatherings for Board and Committee work may resume, limited to 25 or fewer individuals.
6. Retail settings are not subject to the 25-person limit but instead are limited to 50% of the building's capacity as set by the Fire Marshall. The DHHS Order does not define "retail" but the term is used generally to describe the sale of both goods or services to the public and, thus would appear to include real estate offices.
7. In-person gatherings for continuing education and other conferences may resume but are limited to 25 or fewer individuals. As the weather continues to improve, outdoor gatherings also become more of an option. The most recent MDHHS Order does modify mask requirements for outdoor gatherings. Masks are not required, but remain highly recommended, at an outdoor gathering with fewer than 100 persons.

8. Governor Whitmer announced this week that 55% of Michiganders have received their first dose of the Covid-19 vaccine. Reaching this threshold of vaccination enables in-person work to resume across all employment sectors on May 24. While office work will be more clearly allowed, the MIOSHA rules are still in force. The current MIOSHA rules and summary of the workplace requirements can be found in the COVID-19 Office Preparedness Toolkit at <https://mirealtors.com/Industry-Resources>. We anticipate additional information from both MDHHS and MIOSHA related to workplace safety rules as we get closer to May 24th.

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