

Social Impact Newsletter

Reopening Ontario's places of worship: Some considerations

June 17, 2020 | [David Tang](#)

Church, synagogues and temples eager to re-open for worship were undoubtedly excited by Ontario's announcement on Monday, June 8, that places of worship would be allowed to open with physical distancing measures in place and attendance limited to "no more than 30% of the building capacity". Anyone checking the COVID emergency regulations last week for details of the conditions of reopening would have found the regulation had not been amended and continued to prohibit people from gathering in places of worship.

The Regulation was actually amended retroactively. That extra time allowed it to comprehensively and consistently establish new rules for all three ways religious services (including weddings and funerals) may now be held in Ontario:

- **Indoor** religious services, weddings and funerals;
- **Outdoor** religious services, weddings and funerals; and
- **Drive-in** religious services.

As there were already regulatory conditions in place for drive-in religious services, the amendment actually replaced them with consistent conditions applicable to all three types of religious services.

Conditions Applicable to All Three Types of Religious Services

All three types of services are subject to the same three conditions:

1. All persons must remain 2 metres apart from each other unless they live in the same household.
2. The persons conducting the service or ceremony must comply with the advice, recommendation and instructions of public health officials on, amongst other things, physical distancing and disinfecting.
3. Any washrooms made available to those attending are cleaned and disinfected as frequently as necessary to maintain a sanitary environment.

It is useful to note that the washroom cleaning and disinfecting requirement only applies to "any washrooms that have been made available to persons attending the gathering". Not all places of worship need to make their washrooms available. The length of the proposed service, the proximity of congregants' homes to the place of worship and the composition of the congregation itself can be considered in deciding whether or not to make any (or how many) washrooms available. If washrooms are not made available or only some are made available, entire areas of the building can be blocked off, avoiding not only the mandatory cleaning and disinfection of those washrooms but also of the corridors, stairwells, hand rails, etc. that serve those washrooms.

Outdoor Religious Services, Weddings and Funerals

Gathering outdoors for religious services, weddings and funerals is now permitted for up to 50 persons.

Drive-in Religious Services

A drive-in religious service is permitted provided all motor vehicles are located at least two metres away from other motor vehicles.

In recognition of the fact that the organizers may not be able to control the drivers of those cars, the obligation is actually imposed on the drivers of the vehicles. A participant who fails to maintain that separation would be the one subject to prosecution and penalties rather than the organizer.

Indoor Weddings, Funerals and Religious Services

A religious service may be held indoors provided the number of persons occupying any room in the building does not exceed 30% of the capacity of that room. The time spent in drafting the amended regulation has resulted in a better approach than that proposed in the June 8th announcement (the assessment of capacity on a building-wide basis). Most place of worship buildings have a single sanctuary or worship area in which the congregation gathers for the religious services. The capacity of the building would be calculated on the entirety of the building's functional space. It is likely that in many instances, that 30% of the capacity of the entire building could even exceed the overall capacity of that sanctuary or worship area. The regulation makes it clear that each individual room in which people congregate must be considered separately.

How Should Capacity Be Assessed?

The regulation does not define what the "capacity" of a room means. There is, however, one measure of capacity in Ontario law that could be used to assess compliance with the regulation.

The Ontario Building Code (technically a (very large) regulation made pursuant to the *Ontario Building Code Act*) employs the "occupant load" concept to establish a number of safety and convenience requirements, like the minimum number of washrooms and exits. The Fire Code also utilizes the occupant load for its requirements. The calculation is usually carried out by the architect of the building and reviewed by the municipality's Building Code examiner prior to the issuance of the building permit for construction. Its calculation is fairly complicated and involves consideration of many factors, including whether the assembly area has fixed seats or non-fixed seats and how much standing space is available. Balconies and mezzanines are included in that calculation.

Most of the time, the users of the building will not know what the occupant load of a particular room is. However, some areas may be designed for a different occupant load than what would normally be prescribed by the Building Code. If that is the case, the Building Code requires posting a permanent sign setting out the occupant load in a conspicuous location. Where there are fixed seats in an assembly area, the occupancy load is likely the number of fixed seats. Nonetheless, it will be difficult for most places of worship to know precisely what the occupancy load is of a particular room.

That may not really matter. The occupancy load standard is quite high. It is calculated on the entirety of the floor area of the room, even if large portions of the space are occupied by areas where the congregation will not be sitting. The floor area that the platform, altar, etc. occupy all serve to increase the occupant load but practically cannot be used to seat the congregation.

In any event, because occupancy load is used to specify the amount of safety measures that are needed, it conservatively assumes a high density of people in the space. For example, assuming that there will be more people in a room ensures that there will be adequate exits in the event of a fire. That can be easily seen when we consider the non-fixed seat standard, which allocates only 0.75 square metres per person. Practically speaking, that probably does not allow a two-metre distance between all congregants.

In most cases, therefore, capacity will not be the limiting factor. It will be the two-metre separation requirement that will limit how many people can worship together.

If your place of worship is composed largely of individuals who are not from the same household, your overall capacity will be more limited than those organizations where significant numbers of the congregation are members of the same household. Household members can be seated together in clusters to better utilize the seating available in the sanctuary. To maximize the flexibility that clustering household members provides, pre-planning is required. Knowing who may arrive, how many members of a household will be attending and structuring the seating to minimize gaps will allow all available spaces to be utilized as efficiently as possible. If your organization needs to run multiple services, controlling and allocating families evenly across those services probably maximizes your capacity.

Are You Really Gathering for a Religious Service, Rite or Ceremony?

As a final note, the regulation only permits "gatherings for the purposes of a wedding, a funeral or a religious service, rite or ceremony". Read strictly, gathering for some of the purposes that a congregation may wish to use its building may not be allowed by this regulation. Not all gatherings will constitute a "religious service, rite or ceremony". While prayer meetings and religious instruction are likely characterizable as a religious rite, particularly within those religious traditions that are less sacramental, religious organizations should nonetheless consider whether large gatherings are necessary and fall within this permission.

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