

OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHLIG, MANAGING DIRECTOR



Mayor's Emergency Rule #19 Amendment #2

The following are amendments or additions to this rule and they shall be read as follows: additions underlined and **bolded**; deletions [bracketed] and ~~stricken~~.

Purpose:

The County of Kaua'i continues to recognize the presence of COVID-19 in our community. Physical distancing and other preventive measures remain necessary to limit the spread of the coronavirus. A spike in infections could overwhelm our healthcare system, as the island's capacity to provide emergency and hospital services is limited.

The County has updated ~~developed~~ the Kaua'i Business and Recreational Guidelines for COVID-19 to guide our approach going forward. The strategy is based on clear metrics centered on COVID-19 case counts and testing positivity rates. This strategy has been specifically tailored for the Island of Kaua'i. Residents and travelers should follow the Kaua'i Business and Recreational Guidelines for COVID-19 and announcements from the County of Kaua'i to keep themselves aware of the current rules surrounding re-opening.

Face covering are still required in accordance with the Governor's Emergency Proclamation.

~~[Furthermore, Governor David Y. Ige's Fourteenth Proclamation (hereinafter the "Governor's Proclamation") has created the statewide pre-travel testing program by establishing a negative test exception to mandatory self-quarantine for persons entering the state. Not all positive COVID-19 cases will be identified through the pre-travel testing program, which will increase the risk of spreading COVID-19 in the community. Our healthcare system has limited capacity to handle increased cases of COVID-19. Therefore, this rule establishes the threshold, with the concurrence of the Governor, at which the County of Kaua'i will take action to revoke the negative test exception set forth in Section IV.B of the Governor's Proclamation for travelers to the State entering into the County of Kaua'i. Such action by the County shall lay the basis for the Governor's opinion pursuant to Section 127A-13(a)(1), Hawaii Revised Statutes, that community conditions at a point in time pose a danger to public health and safety, and the use of quarantine is warranted.]~~

~~[This rule also updates the County's policies on face coverings. This rule supersedes and repeals Mayor's Emergency Rules #6, #10, #11, #12, and #13.]~~

Definitions:

~~A "face covering" means a tightly woven fabric without holes that covers the nose and mouth secured to the head with either ties or straps, or simply wrapped and tied around the face. It can be made of a variety of fabrics such as cotton, silk, or linen. A face covering may be factory-~~

~~made, sewn by hand, or can be improvised from household items such as handkerchiefs, scarfs, or shirts.]~~

Rule:

I. Gatherings, Businesses, Operations, & Activities

Pursuant to HRS §127A-12(a)(5)(D), §127A-12(c)(12), 127A-25, and the Governor’s Proclamation, all indoor and outdoor social gatherings, businesses, operations, and activities are subject to the restrictions and physical distancing requirements found in the Governor’s Proclamation, any applicable State and CDC guidelines, and the **updated** Kaua’i Business and Recreational Guidelines for COVID-19.

The Kaua’i Business and Recreational Guidelines for COVID-19 strategy is based on four tiers. Each tier is based on the level of disease transmission of COVID-19 within the County, which is determined by two criteria: (1) the 7-day average number of daily cases reported; and (2) the 7-day average test positivity rate.

METRICS	TIER 1	TIER 2	TIER 3	TIER 4
Case Count (7 day average)	8+	5-8	2-4	Less than 2
Test Positivity Rate	Greater than 5%	2.5-5%	1-2.49%	Less than 1%

The rules governing allowed and closed indoor and outdoor social gatherings, businesses, operations, and activities at each tier can be found in the Kaua’i Business and Recreational Guidelines for COVID-19.

In order to move from a lower tier to a higher tier (i.e. from Tier 1 to Tier 2), the County must:

- 1) have been in the current tier for at least **two weeks**~~[four consecutive weeks]~~; AND
- 2) meet the case count criteria for that next tier for **one** ~~[two consecutive]~~ (and most recent) week[s]; AND
- 3) meet the test positivity rate criteria for that next tier for **one** ~~[two consecutive]~~ (and most recent) week[s].

~~[The County may only move forward one (1) tier at a time.]~~

In order to move from a higher tier to a lower tier (i.e. Tier 2 to Tier 1), the County must exceed one OR both criteria in the current tier for two consecutive weeks. The County may move backward more than one (1) tier at a time.

In the case of rapid spread of COVID-19 that overwhelms the healthcare system, it may become necessary to implement restrictions not described in the Kauaʻi Business and Recreational Guidelines for COVID-19 in shorter timeframes than two weeks.

II. [Face Coverings]

~~Pursuant to HRS §127A-12(a)(5)(D), §127A-12(c)(12), 127A-25, and the Governor’s Proclamation, except as provided herein, all persons five (5) years of age or older are required to wear a face covering over their nose and mouth, whether indoors or outdoors, in any setting in which they are in close contact (within 6 feet) of people who don’t live in their immediate household. Face coverings must be worn by employees, customers, and visitors at all times inside any establishment in which close contact may occur.~~

Exceptions:

The only exceptions to this rule are individuals who can prove by a preponderance of evidence that they are:

- ~~1. Engaging in the consumption of a food or beverage;~~
- ~~2. Requested to verify their identity by a bank or other institution where the inability to verify the identity of the person may pose a security risk;~~
- ~~3. Interacting with a person who is hearing impaired that may rely on lip-reading to communicate;~~
- ~~4. Engaged in outdoor exercise in accordance with the Kauaʻi Business and Recreational Guidelines for COVID-19; or~~
- ~~5. Incapable of wearing a face covering due to a medical condition or disability. Medical exemptions must be issued by a licensed medical doctor (MD), doctor of osteopathy (DO), advanced practice registered nurse (APRN), or physician assistant (PA). Medical exceptions should not specify the medical condition that precludes wearing of face coverings. Individuals must be able to present evidence of a medical exception when asked for it by law enforcement.]~~

III. [Trans-Pacific Arrivals Under the State’s Pre-Travel Testing Program]

~~If the 7-day average number of daily COVID-19 cases reported in the County of Kauaʻi reaches 5 or more for one week as confirmed by the Kauaʻi District Health Officer, the County shall submit a rule, as set forth in Section I of the Governor’s Proclamation, effectuating revocation of the negative test exception set forth in Section IV.B of the Governor’s Proclamation for travelers to the State entering the County of Kauaʻi. Upon the effective date set forth in the rule, travelers to the State entering into the County of Kauaʻi, without a valid exemption from the State, shall be required to enter into mandatory 14-day self-quarantine.]~~

Force and Effect:

This rule shall have the force and effect of law. Violation of this rule is a misdemeanor, subject to penalty per HRS § 127A-29.

Any person violating any rule of the governor or mayor prescribed and promulgated pursuant to this chapter and having the force and effect of law, shall, if it shall be so stated in the rule, be guilty of a misdemeanor. Upon conviction, the person shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

Term:

Effective May 6, 2021, subject to modification.

Derek
Kawakami

Digitally signed by
Derek Kawakami
Date: 2021.05.04
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Derek S.K. Kawakami
Mayor

APPROVED FOR FORM & LEGALITY:


Matthew Bracken
County Attorney

CONCURRENCE:


David Y. Ige
Governor of Hawai'i
Or
Major General Kenneth Hara
Director, HI-EMA

Kauai Business & Recreational Guidelines for COVID-19

The following guidelines are applicable to all situations, sectors, and businesses:

All social gatherings, situations, sectors, and businesses are subject to the restrictions and physical distancing (6 ft.) and face covering requirements found in the Governor's Nineteenth Proclamation Related to the Covid-19 Emergency.

In accordance with the Governor's Proclamation, Exhibit I:

“All individuals shall wear face coverings over their noses and mouths when in public settings.

The only exceptions to this requirement are:

- A. Individuals with medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the individual;
- B. Children under the age of 5;
- C. While working at a desk or work station and not actively engaged with other employees, customers, or visitors, provided that the individual's desk or workstation is not located in a common or shared area and physical distancing of at least six (6) feet is maintained;
- D. While eating, drinking, smoking, as permitted by applicable law;
- E. Inside private automobiles, provided the only occupants are members of the same household/living unit/residence;
- F. While receiving services allowed under a State or county order, rule, or proclamation that require access to that individual's nose or mouth;
- G. Where federal or state safety or health regulations, or a financial institution's policy (based on security concerns), prohibit the wearing of facial coverings;
- H. Individuals who are communicating with the hearing impaired while actively communicating (e.g., signing or lip reading);
- I. First responders (police, fire fighters, lifeguards, etc.) to the extent that wearing face coverings may impair or impede the safety of the first responder in the performance of his/her duty;
- J. While outdoors when physical distance of six (6) feet from other individuals (who are not members of the same household/living unit/residence) can be maintained at all times; and
- K. As specifically allowed by a provision of a State or county COVID-19 related order, rule, or proclamation.

An owner or operator of any business or operation shall refuse admission or service to any individual who fails to wear a face covering, unless an exception applies under this section. Businesses or operations may adopt stricter protocols or requirements related to face coverings and face shields. Businesses or operations not enforcing this rule may be subject to enforcement, including fines and mandatory closure.

Definition: “Face covering” as used herein means a tightly woven fabric (without holes, vents, or valves) that is secured to the head with either ties or straps, or simply wrapped and tied around

the wearer's nose and mouth. Face coverings must comply with the recommendations of the Center for Disease Control and Prevention ("CDC"), as such recommendations may change from time to EXHIBIT I time. The current CDC guidelines are available at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>. Examples of compliant homemade masks and other facial coverings may be found at: <https://www.cdc.gov/coronavirus/2019-ncov/preventgetting-sick/diy-cloth-face-coverings.html>. A medical grade face-covering is not required.

Face shields (plexiglass/clear plastic shields, etc.) are not permitted as substitutes for face coverings unless an exception to the face covering requirement applies. Individuals who are unable to wear a face covering due to medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the person, or other exception, are encouraged to wear a face shield instead.

The wearing of face coverings is intended to complement, not serve as a substitute, for physical distancing and cleanliness.

Any seller of face coverings, or materials or supplies to make or manufacture such face coverings, shall abide by Haw. Rev. Stat. §127A-30."

Sector and Businesses Specific Guidelines:

Social Gatherings

- This category encompasses all social gatherings that occur on public and private property, including private residences.

Outdoor Sports

- This category encompasses:
 - o Outdoor "pickup" games that do not require formal permission from the facility owner and/or manager and are not connected with a formal league/association.
 - o Outdoor sports that require formal permission from the facility owner and/or manager and are connected with a formal league/association. It excludes sports associated with educational institutions.
- Spectators shall social distance between different households.
 - o Spectators are discouraged.

Indoor Team Sports

- This category encompasses both organized and unregulated team sports.
- Under Tier 3, only organized indoor team sports are allowed.
- Under Tier 3, no spectators are allowed.

Pools

- This applies to all public and private commercial pools. Strictly private pools, such as those at a personal home, are subject to the social gathering restrictions.

Shooting/Archery Ranges

- Operators cannot offer rental safety equipment (e.g., ear plugs, safety glasses).
- Any other equipment that is rented must be sanitized between each use.

Golf Courses

- All Public/Private golf courses are subject to the Back2Golf guidelines.
- Tournaments must comply with Back2Golf and all State and County rules at the time the event occurs. The tournament organizer is responsible for ensuring that no congregating occurs on property before or after the event that is in violation of social gathering restrictions.
- Any retail areas must comply with retail and service businesses requirements; restaurants/cafes/concession stands must comply with restaurant requirements.

Real Estate Services

- All real property sales and management activities should be accomplished by remote/electronic means whenever possible.

New/Used Car/Truck Dealerships

- Operators are encouraged to carry out transactions remotely as much as possible.

Automated & Mobile Service Providers

- Automated and mobile service providers provide services on a mobile basis in which there is no human interaction between the service provider and the customer, including, but not limited to, mobile pet grooming and car washing/detailing businesses. The service provider must implement sanitation measures consistent with CDC guidelines.

Retail & Service

- This category includes all retail and service businesses.
- Each retail and service business must set and avoid exceeding an occupancy limit for their facility that allows for physical distancing at all times.
- Fitting rooms (as applicable) may be open, but precautions must be taken to mitigate the spread of COVID-19, including regular sanitizing of frequently touched surfaces and ensuring appropriate physical distancing can be maintained in the fitting room area.

- Food-court dining areas must comply with the applicable restrictions in the “Restaurants” section.

Faith-based Services

- This category encompasses faith-based services, including wedding ceremonies and funerals, that take place in a church or other religious venue. All other wedding/funeral events conducted outside of this setting fall into the social gathering category or professionally organized events category.
- Large numbers of individuals congregating together indoors for a long period of time is a high-risk activity. As such, it is highly encouraged that faith-based services be conducted virtually at this time. When conducted in-person, 50% capacity is recommended.

Restaurants/Bars

- All restaurants and bars must comply with the Hawaii State Department of Health’s [“Guidance for Reopening Food Service Sector”](#).

Museums, Gardens, Tours & Other Commercial Attractions

- Restrictions in this category apply to: museums, botanical gardens, tours (e.g. ziplining, inner tubing, etc.) and other commercial attractions (e.g. water parks, mini golf, etc.)
- Retail areas must comply with retail and service businesses requirements; restaurants/cafes/concession stands must comply with restaurant requirements.

Arcades & Bowling

- Bowling alleys/arcades with restaurants/cafes/concession stands must comply with restaurant requirements.
- Any equipment that is rented must be sanitized between each use.

Commercial Recreational Boating

- Commercial recreational boats are subject to the restrictions imposed by the Department of Boating and Ocean Recreation. As such, the capacity guidelines included here are strong recommendations from the County of Kauai.

Helicopter/Skydiving Tours

- Helicopter and skydiving operations are subject to the restrictions imposed by the Federal Aviation Authority (FAA). As such, the capacity guidelines included here are strong recommendations from the County of Kauai.

Transportation for Non-Essential Activities

- This category does not include public transportation, which is considered essential.

Hair Salons, Nail Salons, & Barbershops

- All hair salons, nail salons, and barbershops are subject to their respective industry COVID-19 guidance and restrictions.
- Must ensure that all equipment that comes into direct contact with customers/clients and all furniture in service areas is completely cleaned and disinfected between each customer/client in accordance with CDC guidelines and applicable law.

Personal Care Services (tattoos, massage, waxing, piercing, etc.)

- All personal care services are subject to their respective industry COVID-19 guidance and restrictions.
- Must ensure that all equipment that comes into direct contact with customers/clients and all furniture in service areas is completely cleaned and disinfected between each customer/client in accordance with CDC guidelines and applicable law.

Business Offices

- Remote work is encouraged across all tiers.
- Breakroom and conference room use is discouraged. When used, it must comply with distancing and mask wearing requirements. Where possible, meetings should take place virtually or outdoors.

Markets, Craft Fairs, etc.

- This category covers activities such as holiday craft fairs, art nights, and other markets.

Professionally Organized Receptions, Meetings, & Other Events at an Official Venue

- This category encompasses professionally organized receptions, meetings, and trainings where people intermingle, such as weddings, funerals, conferences, and other social events at an official venue (excluding weddings and funerals that take place in a faith-based facility).
- Professionally organized events at an official venue encompasses any event that has a professional organizer who is tasked with ensuring compliance with all State and County COVID-19 rules at a hotel, restaurant, or other event space. The organizer is required to maintain a record of all attendees and their contact information in the event that information is needed by the Department of Health for contact tracing efforts.
- Outdoor events are strongly encouraged since they pose much less risk in terms of disease transmission than indoor events.

Drive-In Events

- This category encompasses events such as: drive-in movies, food distribution, graduations, concerts, funeral services, etc.
- Drive-in events are allowed across all tiers. All attendees shall remain in their vehicle for the duration of the event except when purchasing food/beverages or using restroom facilities. It is the responsibility of the organizer to ensure that there is no congregating before, during, or after the event that is in violation of the social gathering restrictions.
- No intermingling with people outside of your vehicle.

Gyms, Fitness Facilities, & Exercise Classes

- This category encompasses, but is not limited to: gyms, weight rooms, yoga studios, aerobic classes, dance classes, gymnastics, martial arts, personal training, etc.
- Exercise is a high-risk activity for disease transmission and should be conducted solo outdoors whenever possible.
- The 50% capacity rule shall apply to each individual room.



KAUAI BUSINESS & RECREATIONAL GUIDELINES FOR COVID-19 Updated May 6, 2021

Tier	TIER 1	TIER 2	TIER 3	TIER 4
Case Count (7 day average)	8+	5+	2+	<2
Test Positivity Rate	Greater than 5%	2.5-5%	1-2.49%	Less than 1%

Sectors and Businesses:

Social Gatherings	5 indoor/5 outdoor	5 indoor/15 outdoor	5 indoor/25 outdoor	10 indoor/25 outdoor
Parks, Beaches, Trails, Campgrounds	Open (max group= 5)	Open (max group= 15)	Open (max group= 25)	Open (max group= 25)
Outdoor Team Sports	Suspended	Suspended	Allowed	Allowed
Indoor Team Sports	Suspended	Suspended	Allowed with restrictions	Allowed with restrictions
Gyms, Fitness Facilities, Exercise Classes	Closed	25% capacity	50% capacity	50% capacity
Pools	Allowed	Allowed	Allowed	Allowed
Shooting & Archery Ranges	Allowed	Allowed	Allowed	Allowed
Golf Courses	Allowed	Allowed	Allowed	Allowed
Real Estate Services	Appointment only	Allowed (max 5 indoors)	Allowed (max 5 indoors)	Allowed (max 10 indoors)
Car & Truck Dealerships	Appointment only	Appointment only	Allowed	Allowed
Automated & Mobile Service Providers	Allowed	Allowed	Allowed	Allowed
Retail & Service	25% capacity	50% capacity	Allowed	Allowed
Faith-based Services	25% capacity recommended	50% capacity recommended	50% capacity recommended	50% capacity recommended
Restaurants & Bars	Take-out or outdoor dining only Max group: 5	50% indoor capacity (max group: 4 indoor/15 outdoor)	50% indoor capacity (max group: 6 indoor/25 outdoor)	50% indoor capacity (Max group: 10 indoor/25 outdoor)
Museums, Gardens, Tours & Other Commercial Attractions	Outdoor areas only Max group: 5	50% indoor capacity (max group: 5 indoor/15 outdoor)	50% indoor capacity (max group: 5 indoor/25 outdoor)	50% indoor capacity (max group: 10 indoor/25 outdoor)
Arcades & Bowling	Closed	25% capacity (max group= 5)	50% capacity (max group= 5)	50% capacity (max group= 10)
Commercial Recreational Boating	25% capacity recommended	25% capacity recommended	50% capacity recommended	50% capacity recommended
Helicopter & Skydiving Tours	50% capacity recommended	50% capacity recommended	Allowed	Allowed
Transportation for Non-Essential Activities	50% capacity recommended	50% capacity recommended	50% capacity recommended	50% capacity recommended
Hair Salons, Nail Salons, & Barbershops	Allowed	Allowed	Allowed	Allowed
Personal Care Services (tattoo, massage, waxing, piercing, etc.)	Outdoor only	Allowed	Allowed	Allowed
Business Offices	Remote encouraged	Remote encouraged	Remote encouraged	Remote encouraged
Markets, craft fairs, etc.	Outdoor Only	Allowed	Allowed	Allowed
Professionally organized receptions, meetings, and events at an official venue	5 indoor/10 outdoor w/restrictions	10 indoor/20 outdoor w/restrictions	20 indoor/40 outdoor w/restrictions	25 indoor/50 outdoor w/restrictions
Indoor Movie Theaters	25% capacity	50% capacity	50% capacity	50% capacity
Drive-in Events	Allowed	Allowed	Allowed	Allowed

*Max group sizes do not apply to individuals within the same household