

OFFICE OF THE MAYOR

DEREK S.K. KAWAKAMI, MAYOR

MICHAEL A. DAHLIG, MANAGING DIRECTOR



Mayor's Emergency Rule #19 Amendment #3

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 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 (**updated May 25, 2021**) and announcements from the County of Kaua'i to keep themselves aware of the current rules surrounding re-opening.

The updated guidance is designed to provide greater flexibility and fewer restrictions at tiers with smaller case counts and test positivity rates. The updated guidance also creates two new tiers:

- **Tier 5 for when 60% or more of Hawai'i residents are fully vaccinated, the 7-day average of case counts is less than 3, and there is less than a 1% test positivity rate; and**
- **Tier 6, which will occur when 70% or more of Hawai'i residents are fully vaccinated.**

At Tier 6, the restrictions put into place by the Kaua'i Business and Recreational Guidelines for COVID-19 will no longer be in effect, though State rules would still apply.

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

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 **(updated May 25, 2021)**.

The Kaua'i Business and Recreational Guidelines for COVID-19 strategy is based on ~~[four]~~ **six** tiers. Each tier is based on the level of disease transmission of COVID-19 within the County, which is determined by ~~[two]~~ **three** criteria: (1) the 7-day average number of daily cases reported; ~~[and]~~ (2) the 7-day average test positivity rate; **and (3) the percentage of Hawai'i residents that are fully vaccinated.**

METRICS	TIER 1	TIER 2	TIER 3	TIER 4	TIER 5	TIER 6
Case Count (7 day average)	[8+] <u>12+</u>	[5-8] <u>8+</u>	[2-4] <u>5+</u>	[Less than 2] <u>3+</u>	<u>Less than 3</u>	<u>NA</u>
Test Positivity Rate	Greater than 5%	2.5-5%	1-2.49%	Less than 1%	<u>Less than 1%</u>	<u>NA</u>
<u>Vaccine Status</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>60%+ Hawai'i residents fully vaccinated</u>	<u>70%+ Hawai'i residents fully vaccinated</u>

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 **(updated May 25, 2021)**.

In order to move from a lower tier to a higher tier (i.e. from Tier 1 to Tier 2) **in Tiers 1 through 4**, the County must:

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

In order to move from Tier 4 to Tier 5, the County must:

- 1) **have been in Tier 4 for two weeks; AND**
- 2) **meet the case count criteria for Tier 5 for one (and most recent) week; AND**
- 3) **meet the test positivity rate criteria for Tier 5 for one (and most recent) week; AND**
- 4) **determine that 60 percent or more of Hawai'i residents are fully vaccinated.**

The County will reach Tier 6 once it reaches the one benchmark of having 70 percent or more of Hawai'i residents fully vaccinated. Once the County meets the requirements of Tier 6, then the Kaua'i Business and Recreational Guidelines for COVID-19 will no longer be in effect and restrictions put into place by the Guidelines will not be operational at any tier. Rules promulgated at the State level will continue to apply to the County of Kaua'i, except as modified under Mayor's Emergency Rules issued in accordance with Section I of the Governor's Proclamation.

In order to move from a higher tier to a lower tier (i.e. Tier 2 to Tier 1) **for Tiers 1 through 5**, 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. **Once the County reaches Tier 6, it will no longer move from a higher to lower tier.**

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 Kaua'i Business and Recreational Guidelines for COVID-19 in shorter timeframes than two weeks.

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 upon the concurrence of the Governor, subject to modification.

APPROVED FOR FORM & LEGALITY:



Derek S.K. Kawakami
Mayor



Aaron D. Larrimore
Deputy County Attorney

CONCURRENCE:

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is fluid and cursive, with a large loop at the end of the last name.

David Y. Ige

Governor of Hawai'i

Or

Major General Kenneth Hara

Director, HI-EMA

DATE OF CONCURRENCE:

May 25, 2021

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

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.”

All categories where a percent of the allowable maximum occupancy capacity is set shall be based on the occupant load for each individual space within a building/structure as described in section 1004 of the International Building Code (IBC).

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.

- 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.
 - 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.
- **Under Tier 4 and 5, both organized and unregulated team sports are allowed.**
- **Under Tier 4, spectators are allowed following 50% capacity.**
- **Under Tier 5, spectators are allowed following 75% capacity.**

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.]~~

Mass Transportation

- **This category includes both private and public transportation services. Private transportation shall mean any services which require a Motor Carrier Certificate or Permit for Transportation Passengers, regulated by the Public Utilities Commission.**

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.
- **Official venues wanting to hold an event that exceeds the maximum indoor/outdoor capacity set in Tiers 4 and 5 only, may be allowed under the following conditions:**
 - **Official venues must require all participants to voluntarily provide proof of vaccination or negative results from a COVID-19 test.**
 - **Proof of vaccination shall mean participants provide documentation that they have received all doses required for full vaccination of their respective vaccine type, and have cleared 14 days from their last dose.**
 - **If participants are unvaccinated they may provide proof of a negative COVID-19 test, no more than 24 hours before the start of the event. For multi-day events, unvaccinated participants shall show proof of a negative test results on a daily basis.**
 - **COVID-19 tests for this purpose may be either antigen or molecular (PCR) tests, but not antibody tests.**
 - **Persons under the age of five attending the event with a participant who provides proof of vaccination or negative test results are not required to provide proof of vaccination or negative test results. All**

- other participants are required to provide proof of vaccination or negative test results.**
- **Official venues are responsible for maintaining vaccination and test records and providing them to the Department of Health (DOH) for review on the request of the County or DOH.**
 - **Official venues are required to ensure that participants consent to the release of their proof of vaccination and/or negative test results to DOH upon the request of the County or DOH.**

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.

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- 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;
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- Outdoor events are strongly encouraged since they pose much less risk in terms of disease transmission than indoor events.
- Official venues wanting to hold an event that exceeds the maximum indoor/outdoor capacity set in Tiers 4 and 5 only, may be allowed under the following conditions:
 - o Official venues must require all participants to voluntarily provide proof of vaccination or negative results from a COVID-19 test.
 - Proof of vaccination shall mean participants provide documentation that they have received all doses required for full vaccination of their respective vaccine type, and have cleared 14 days from their last dose.
 - If participants are unvaccinated they may provide proof of a negative COVID-19 test, no more than 24 hours before the start of the event. For multi-day events, unvaccinated participants shall show proof of a negative test results on a daily basis.
 - COVID-19 tests for this purpose may be either antigen or molecular (PCR) tests, but not antibody tests.
 - o Persons under the age of five attending the event with a participant who provides proof of vaccination or negative test results are not required to provide proof of vaccination or negative test results. All other participants are required to provide proof of vaccination or negative test results.
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- 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 25, 2021



Tier	TIER 1	TIER 2	TIER 3	TIER 4	TIER 5	TIER 6
Case Count	12+	8+	5+	3+	<3	70% fully vaccinated
Test Positivity Rate	Greater than 5%	2.5-5%	1-2.49%	Less than 1%	60% fully vaccinated	
Vaccinations completed						

Sectors and Businesses:

Sector/Business	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6
Social Gatherings	5 indoor/5 outdoor	5 indoor/15 outdoor	5 indoor/25 outdoor	10 indoor/25 outdoor	25 indoor/75 outdoor	Open!
Parks, Beaches, Trails, Campgrounds	Open (max group= 5)	Open (max group= 15)	Open (max group= 25)	Open (max group= 25)	Open (max group= 75)	Open!
Outdoor Team Sports	Suspended	Suspended	Allowed	Allowed	Allowed	Open!
Indoor Team Sports	Suspended	Suspended	Allowed with restrictions	Allowed with restrictions	Allowed with restrictions	Open!
Gyms, Fitness Facilities, Exercise Classes	Closed	25% capacity	50% capacity	50% capacity	75% capacity	Open!
Pools	Allowed	Allowed	Allowed	Allowed	Allowed	Open!
Shooting & Archery Ranges	Allowed	Allowed	Allowed	Allowed	Allowed	Open!
Golf Courses	Allowed	Allowed	Allowed	Allowed	Allowed	Open!
Real Estate Services	Appointment only	Allowed (max 5 indoors)	Allowed (max 5 indoors)	Allowed (max 10 indoors)	Allowed (max 25 indoors)	Open!
Car & Truck Dealerships	Appointment only	Appointment only	Allowed	Allowed	Allowed	Open!
Automated & Mobile Service Providers	Allowed	Allowed	Allowed	Allowed	Allowed	Open!
Retail & Service	25% capacity	50% capacity	Allowed	Allowed	Allowed	Open!
Faith-based Services	25% capacity recommended	50% capacity recommended	50% capacity recommended	50% capacity recommended	75% capacity recommended	Open!
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)	75% indoor capacity (Max group: 25 indoor/75 outdoor)	Open!
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)	75% indoor capacity (max group: 25 indoor/75 outdoor)	Open!
Arcades & Bowling	Closed	25% capacity (max group: 5)	50% capacity (max group: 5)	50% capacity (max group: 10)	75% capacity (max group: 25)	Open!
Commercial Recreational Boating	25% capacity recommended	25% capacity recommended	50% capacity recommended	50% capacity recommended	75% capacity recommended	Open!
Helicopter & Skydiving Tours	50% capacity recommended	50% capacity recommended	Allowed	Allowed	Allowed	Open!
Mass Transportation	50% capacity recommended	50% capacity recommended	50% capacity recommended	50% capacity recommended	75% capacity recommended	Open!
Hair Salons, Nail Salons, & Barbershops	Allowed	Allowed	Allowed	Allowed	Allowed	Open!
Personal Care Services (tattoo, massage, waxing, piercing, etc.)	Outdoor only	Allowed	Allowed	Allowed	Allowed	Open!
Business Offices	Remote encouraged	Remote encouraged	Remote encouraged	Remote encouraged	Remote encouraged	Open!
Markets, craft fairs, etc.	Outdoor Only	Allowed	Allowed	Allowed	Allowed	Open!
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**	40 indoor/100 outdoor w/restrictions**	Open!
Indoor Movie Theaters	25% capacity	50% capacity	50% capacity	50% capacity	75% capacity	Open!
Drive-in Events	Allowed	Allowed	Allowed	Allowed	Allowed	Open!

*Max group sizes do not apply to individuals within the same household
**Please refer to the Kauai Business & Recreational Guidelines document for additional information.