

# 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 Kaua'i 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 Kaua'i 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 exemptions 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 Kaua'i reaches 5 or more for one week as confirmed by the Kaua'i 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 Kaua'i. Upon the effective date set forth in the rule, travelers to the State entering into the County of Kaua'i, 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

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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