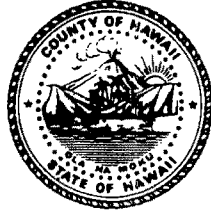


Mitchell D. Roth  
Mayor



Lee E. Lord  
Managing Director

Robert H. Command  
Deputy Managing Director

## County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

### **Mayor's COVID-19 Emergency Rule No. 19**

Pursuant to the authority vested in me by Hawai'i Revised Statutes Chapter 127A and due to the public health concerns related to COVID-19, I hereby adopt and promulgate the following rules which have the force and effect of law.

The following State of Hawai'i proclamations related to the COVID-19 emergency authorized by Governor David Ige are relevant to this emergency rule: The Thirteenth Proclamation established a negative test exception to the mandatory self-quarantine requirement for persons entering the State of Hawai'i effective October 15, 2020 and suspended certain specified laws; the Fourteenth Proclamation authorized each county to establish a two-test system for transpacific travelers entering the respective counties; the Fifteenth Proclamation established a statewide face covering requirement; the Sixteenth Proclamation modified the requirements for transpacific travel to Hawai'i; the Seventeenth Proclamation reduced the mandatory self-quarantine for persons entering the State of Hawai'i and for travelers to the counties of Maui, Kaua'i, Hawai'i and Kalawao from 14 days to 10 days; the Eighteenth Proclamation extended the state of emergency and clarified the state of mind required for violation of the proclamation and the requirements for self-quarantine exceptions; the Nineteenth, Twentieth and Twenty-First Proclamation which began to recognize progress made on managing the crisis and implementing limiting relaxation of certain restrictions; the Emergency Proclamation Related to the COVID-19 Response dated August 5, 2021, noted that Delta, a highly contagious SARS-CoV-2 virus strain, has resulted in spiking case numbers around the world and continued to spread in our State; and the Emergency Proclamation Related to the State's COVID-19 Delta Response dated October 1, 2021, noted that the Delta strain continued to create considerable risk of infection for members of our community and continues to endanger the health, safety and welfare of the people of Hawai'i.

On November 2, 2021, Governor Ige issued Executive Order No. 21-08, which set statewide limits for social gatherings, restaurants, bars, social establishments, and gyms. Subsequently, on November 29, 2021, Governor Ige issued an Emergency Proclamation Related to COVID-19.

Since then, there has been a gradual reduction in the number of COVID-19 cases on Hawai'i Island with seven-day average of cases at twelve (12) per day and the test positivity rate at 2.4% as of November 29, 2021. Currently, over sixty-three percent of Hawai'i Island residents have been vaccinated. This Emergency Rule is based upon evidence that COVID-19 continues to endure within this state and county via travel related cases as well as through community spread as reported by the State Department of Health ("DOH") and the Centers for Disease Control and Prevention ("CDC"). This Emergency Rule is also based upon scientific evidence that reinforces the types of best practices and social policies that are most effective at mitigating or preventing the transmission of COVID-19. To date, the number of documented cases of COVID-19 in the State is in excess of 87,585, and there have been at least 1018 deaths attributed to this disease in the State.

The continued spread of COVID-19 has resulted in increased hospitalization and strained health care resources, including utilization of a limited number of ICU hospital beds on island. Without immediate action, the County of Hawai'i is unable to meet urgent health care needs of our island community. As a result, it has become necessary to continue restrictions with a gradual modification of our Emergency Rule that recognizes progress being made in the reduction of positive COVID-19 cases and to reduce the threat of spread and enable our health care resources to meet urgent health care needs attributable to the spread of COVID-19.

I, Mitchell D. Roth, Mayor of the County of Hawai'i, hereby authorize the following:

A. Work in Businesses or Operations

All businesses, operations, and activities are permitted to remain open except those businesses, operations and activities delineated in Exhibit 5, or as otherwise provided by this rule, and subject to all face covering, safety restrictions and physical distancing requirements of this rule, the Governor's Emergency Proclamation Related to the COVID-19, dated November 30, 2021, as may be amended, and any subsequent proclamations or orders. Nothing in this rule shall prevent businesses, operations, or activity sponsors from protecting their employees and customers by requiring proof of vaccination or a recent negative COVID test of employees or customers as a condition to entry into the business establishment, operation or to participating in an activity.

B. County Government Operations

1. Individuals entering a County Facility pursuant to this Rule shall minimize time within County Facilities to the extent reasonably possible. This shall include going directly to the room, department, or area of the County Facility in which their presence is required and leaving immediately after their Official County Business is

complete. Individuals who enter County Facilities must, while therein, comply with Safe Practices requirements set forth in the Governor's Emergency Proclamation, dated November 30, 2021, as may be amended from time to time, and maintain six (6) feet between themselves and any other person to the extent feasible.

2. Inasmuch as county offices vary in size and ability to accommodate members of the public in a manner consistent with safe practices, each county department head may issue protocols and adjust department operations as necessary to minimize direct interaction between its staff and the public or to minimize the number of persons entering its offices.

C. Safe Practices

All persons shall implement the following physical distancing and sanitation requirements to the fullest extent possible:

1. Face Coverings Required. Face coverings shall be required pursuant to the Governor's Emergency Proclamation Related to the COVID-19, dated November 30, 2021, as may be amended from time to time.
2. High risk populations. Those not fully vaccinated and others at high risk for COVID-19 are urged to stay in their residences to the extent possible, except as necessary to seek medical care.
3. Persons who are sick. Persons who are sick or are exhibiting symptoms such as fever or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea or vomiting, diarrhea or any other symptoms of COVID-19 identified by the CDC shall NOT report to their places of employment and shall stay at their residences, except as necessary to seek medical care.
4. Physical distancing requirements. Physical distancing requirements shall be set by the Governor's Emergency Proclamation Related to COVID-19, dated November 30, 2021, as may be amended from time to time, shall be followed.
5. Hand sanitizing products. Businesses and operations are urged to provide hand sanitizer or equivalent hand sanitizing products for all employees and customers.

6. Disinfection. Businesses and operations are urged to regularly disinfect all high-touch surfaces.
7. Safeguards for high risk populations. Businesses and operations are urged to implement processes to safeguard members of the public by implementing requirements for vaccination or proof of a negative COVID test within 72 hours of entry. Those not fully vaccinated and other high risk person identified by the CDC that are at increased risk for severe illness from COVID-19 are encouraged to stay in their residence to the extent possible, and to avoid crowded settings except as necessary.
8. Signage. Businesses or operations shall post a sign at the entrance of the facility informing all employees and customers of any vaccination and/or testing restrictions and that they shall, at a minimum: wear face coverings while at the business or operation; avoid entering the business or operation if they have a cough or fever or otherwise do not feel well; maintain the required physical distancing from all others; and not shake hands or engage in unnecessary physical contact.

D. Gatherings

Rules stated herein may be superseded by rules promulgated by the Governor.

Except as otherwise permitted in this Rule and pursuant to Exhibit 2 (County parks operations) and Exhibit 6 (special events requests), indoor social gatherings of more than twenty-five (25) persons and outdoor social gatherings of more than one hundred (100) persons are prohibited.

A social gathering is defined as a planned or spontaneous event, assembly, or meeting that brings together multiple people from separate households in a single space or area, indoors or outdoors, at the same time and in a coordinated fashion.

1. A social gathering includes, but is not limited to, such get-togethers as a banquet, barbecue, concert, fair, festival, funeral, luau, parade, party, picnic, or wedding.
2. A social gathering does not include, and this definition does not apply to:
  - Federal, state and county government operations and functions;
  - Educational, adult and childcare facilities with adequate and active supervision and monitoring, enforcement capabilities, and established emergency response protocols;

- Businesses, operations, and activities operating under Section A of this Rule;
- Park operations and functions governed by Exhibit 2.

E. Travel to the County of Hawai'i

Travel to the County of Hawai'i shall be governed by the Governor's proclamations and rules as may be amended from time to time.

F. County Boards and Commission Meetings

County board and commission meetings currently conducted in accordance with existing protocols shall continue to do so as set forth by Exhibit C of Governor Ige's Emergency Proclamation Related to COVID-19 dated November 29, 2021, or at such time as Exhibit C expires, and as provided in Hawai'i Revised Statutes Chapter 92, as amended.

G. Specific Rules Relating to Businesses, Operations, and Activities

Exhibit 1. Restaurants, bars, food courts, and other food establishments

Exhibit 2. County Parks and Recreational Facilities

Exhibit 3. Businesses, Operations and Activities to Remain Closed

Exhibit 4. Commercial/Business Gatherings

H. Violations and Penalties

Pursuant to Hawai'i Revised Statutes Section 127A-29, and Hawai'i Revised Statute Chapter 291D, any person violating this Rule shall be guilty of an emergency period infraction, as defined in section 291D-2, HRS, and fined \$250.00 for each violation. Any person violating mandatory quarantine/isolation requirements shall be guilty of an emergency period infraction, as defined in section 291D-2, and fined \$500.00 for each violation.

Nothing contained in this section shall modify the criminal penalties for violating transpacific travel or quarantine rules set forth in the Governor's Proclamations as may be amended. Should the penalty provisions relating to quarantine violations be adjudged inconsistent with the Governor's Proclamation, the Governor's Proclamation shall govern.

Additionally, it shall be a petty misdemeanor for any person to intentionally and/or knowingly fail or refuse to comply with any lawful order or direction of any law enforcement officer, to and including failing to provide the person's name and address,

or any proof thereof, or both, as requested in the course and scope of the law enforcement officer's duties under this Rule.

I. This Rule shall take effect immediately and shall continue through January 28, 2022, unless extended, rescinded, superseded, or amended by my subsequent order, or as otherwise provided by law.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the County of Hawai'i to be affixed. Done this 30<sup>nd</sup> day of November, 2021 in Hilo, Hawai'i.



Mitchell D. Roth  
Mayor  
County of Hawai'i

I HEREBY CERTIFY that above is a true and correct copy of the original now on file in my office.

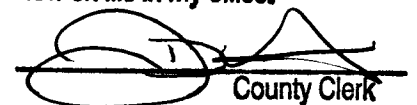
  
County Clerk

EXHIBIT 1

**Restaurants, bars, food courts, and other food establishments**

Restaurants, bars, food courts, and other food establishments, whether indoors or outdoors, in the County shall comply with the following requirements:

- A. General.
- i. Compliance with Physical Distancing and face covering Requirements stated in the Governor's Emergency Proclamation Related to the COVID-19, dated November 30, 2021, as may be amended.
  - ii. Compliance with all regulatory guidelines.
  - iii. Development, posting, and implementation of written protocols ("COVID-19 Mitigation Plan") consistent with County, State, industry-specific associations or organizations, and CDC guidance to mitigate the spread of COVID-19 including, but not limited to the following:
    1. <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>
- B. Operations.
- i. Face coverings. Employees and customers must follow the Statewide face covering mandate contained in the Governor's Emergency Proclamation Related to the COVID-19, dated November 30, 2021, as may be amended from time to time.
  - ii. Customers must wear face coverings at all times except when actively eating or drinking.
  - iii. Separate groups are prohibited from intermingling.
  - iv. Restaurants, bars, food courts are urged to fully sanitize tables and chairs after each group (or individual customer) leaves the establishment.
  - v. Valet services are allowed as long as valet attendants wear a face mask, sanitize their hands before entering the customer's vehicle and sanitize the touched surfaces of the customer's vehicle before and after the valet service is provided.
- C. Cleaning and Disinfecting.
- i. Cleaning and disinfecting must be conducted in compliance with CDC guidance.
  - ii. When an active employee is identified as being COVID-19 positive by testing, cleaning, and disinfecting must be performed as soon after the confirmation of a positive test as practical consistent with CDC guidance.
  - iii. CDC guidance can be found online at:

<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>

EXHIBIT 2

**COUNTY PARKS AND RECREATIONAL FACILITIES**

1. All County of Hawai'i ("County") parks and recreational facilities: (1) listed specifically in Hawai'i County Code, Chapter 15 Parks & Recreation, Article 3, Section 15-68.1 "parks and recreational facility schedule," or (2) as defined by Hawai'i County Code, Chapter 15, Article 1, Section 15-3 as a "park area" or "recreational area," (hereinafter referred to as "park" or "parks") are open unless otherwise stated herein or addressed by separate administrative action, pursuant to the following requirements.
  - a. Physical distancing and Face Covering requirements contained in Section C of these rules and the Governor's Emergency Proclamation Related to the COVID-19, November 30, 2021, as may be amended from time to time, shall be followed.
  - b. Face Coverings are not required at indoor County recreational facilities for individuals actively participating in recreational and exercise activities.
  - c. Events or activities with the potential to generate gatherings in excess of the permitted maximum number of persons will not be allowed unless a comprehensive plan to protect the health, safety and wellbeing of participants, officials, supporters, spectators and other individuals present is pre-approved by the Director of Parks and Recreation (hereinafter "Director"). The plan shall include, but not be limited to, the following:
    - i) Reasonable means and methods to limit and enforce restrictions on the gathering including realistic, sufficient resources to implement such; and
    - ii) Reasonable means to inform, and methods to ensure and enforce, physical distancing requirements for all persons present; and
    - iii) Reasonable strategies for disinfection/sanitization of all common and high-touch surfaces.
  - d. Businesses and operations with the appropriate permit(s) to operate in a park may continue, subject to specific approval of the Director acknowledging this Rule and provided they adhere to applicable COVID-19 industry standards, CDC guidance, and State and County requirements.
  - e. The Director may authorize limited term, specific uses of park facilities for County operated, managed, sponsored or approved activities, programs, services and functions.
2. All County beach parks and shoreline parks remain open. All persons must abide by the face covering, physical distancing, and gathering requirements contained in Sections B and C of these rules, as amended or superseded.
3. All other State or County restrictions related to COVID-19 must be followed, including, but not limited to, applicable quarantine restrictions.

The foregoing is subject to additional specific park closures, changes to hours of use, and operational modifications as designated by the County Department of Parks and Recreation by posting of appropriate signage and supersedes any conflicting County emergency rule or provision.

EXHIBIT 3

**Places of Worship**

Places of Worship, including in-person spiritual services may be conducted subject to the following:

- A. All persons present at the service must maintain six (6) feet of physical distance between others, except members of the same household or living unit. The gathering limits contained in Section D. of this rule are not applicable to places of worship, however organizers shall limit the number of persons attending in-person spiritual services to ensure physical distancing requirements are met.
- B. Organizers and employees are strongly encouraged to develop and implement appropriate COVID-19 mitigation plans and procedures for their respective in-person services, which must include, but are not limited to, addressing the following issues:
  - i. Adherence to the Statewide face covering mandate contained in the Governor's Emergency Proclamation Related to the COVID-19, dated October 1, 2021, as may be amended from time to time.
  - ii. Safeguards for higher risk populations consistent with CDC guidance, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.
  - iii. Persons who are sick.
  - iv. Personal hygiene.
  - v. Usage of hand sanitizer and sanitizing products.
  - vi. Cleaning and disinfection.
  - vii. Online and remote access and/or drive-in services.
  - viii. Signage.
  - ix. Limiting community sharing of worship materials and other frequently touched items.
  - x. Projection of hymns and verses, when possible.
- C. Organizers and employees of in-person spiritual services must follow, to the greatest extent possible, current COVID-19 related County guidelines, State of Hawai'i guidelines, and CDC guidelines (available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/index.html>)
- D. Encouraged Practices. Places of Worship are encouraged to do the following:
  - i. Modify the methods used to receive financial contributions. Consider a stationary collection box, the main, or electronic methods of collection regular financial contributions instead of shared collection trays or baskets.

- ii. If food is offered at any event, consider pre-packaged options, and avoid buffet or family-style meals, if possible.

EXHIBIT 4

**Businesses, Operations and Activities to Remain Closed**

Businesses, operations and activities identified below shall remain closed, unless permission has been granted pursuant to Exhibit 5:

1. Nightclubs
2. Large indoor venues
3. Large outdoor venues
4. Road races (marathons, triathlons, etc.)

Note, however, travel to engage in minimum basic operations of the businesses and operations identified above is allowed, including the minimum necessary activities to maintain the value of the business's inventory, ensure security, process payroll and employee benefits, and related functions as well as the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences. Minimum basic operations do not include in-person public/customer contact.

EXHIBIT 5

**Commercial/Business Gatherings**

Under the supervision of professional planners or venues, or a responsible business or person, business, events or gatherings otherwise prohibited by Section D (collectively "events"), events may seek approval for events otherwise prohibited by Section D and upon approval of the Mayor or his designate. The intention of this request procedure is to allow limited supervised types of events which can be held safely. A request shall be submitted to <https://coronavirus-response-county-of-hawaii-hawaii-county-gis.hub.arcgis.com/> at least thirty (30) days before the proposed event and must at a minimum include the following:

- a. The applicant's name and tax identification number under which the event shall be held.
- b. Evidence of event insurance.
- c. Identification of the responsible person(s) for adherence to these Rules and this request.
- d. Description of the event and floor plan for the event which illustrates adherence to safe distancing and practices as required by any federal or state law, Gubernatorial Proclamation or Mayoral Proclamation as may be amended from time to time.
- e. A COVID-19 Event Plan which:
  - i) is subject to safe distancing guidelines;
  - ii) describes how compliance with these Rules shall be supervised and enforced; and
  - iii) Adheres to Exhibit 1 of these Rules relating to restaurants, bars, food courts, and other food establishments.

The Mayor retains discretion to grant, deny, or require additional information and/or safety measures as a condition of granting a request.

Failure to comply with the terms of permission granted shall nullify the permission. In addition to sanctions provided by mayoral proclamation, the event will be immediately cancelled, the applicant shall not be granted further request(s), and/or the applicant's business may be closed or fined.