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Mayors COVID-19 Emergency Rule No. 13

Post Date: 11/27/2020 4:44 PM

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 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; the Fourteenth Proclamation authorized each county to establish a two-test system for transpacific travelers entering the respective counties; and the Fifteenth Proclamation established a statewide face covering requirement.

Amendment to Mayor's COVID-19 Emergency Rule No. 12, effective October 15, 2020 implemented a two-test system for all transpacific travelers to Hawai'i County availing themselves of the negative test exception under the State's Safe Travels Program.

The Sixteenth Proclamation Related to the COVID-19 Emergency (16th Emergency Proclamation), effective November 23, 2020, modified the requirements for transpacific travel to Hawai'i by mandating that all persons electing to participate in the State's Safe Travels pretravel testing program produce a negative test result from a trusted testing partner administered within 72-hours of the final leg of departure or submit to a 14-day mandatory self-quarantine.

This Emergency Rule updates the County's rules, its policies on travel, and its policies on face coverings.

This Emergency Rule is based upon evidence that COVID-19 continues to endure within this state and county via transpacific and inter-island travel related cases as well as through community spread as reported by the State Department of Health 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 state of the pandemic finds that the daily new case count in the U.S. surpassed 185,000, the number of documented cases of COVID-19 in the State is in excess of 17,000 persons, and there have been at least 235 deaths attributed to this disease in the State.

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 restrictions and physical distancing requirements of this rule, the 16th Emergency Proclamation and any subsequent proclamations or orders, the State Department of Health Reopening Hawai'i Safe Practices, and any CDC and industry guidelines.

B. Safe Practices

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

1. **Face Coverings Required.** All persons within Hawai'i County shall wear face coverings, over their nose and mouth, while in public settings.

The only exceptions to this requirement are:

- o Persons five (5) years of age or younger;
- o Persons with medical conditions or disabilities where the wearing of a face covering may pose a health or safety risk to the individual;
- o Persons actively communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;
- o While eating, drinking, smoking, as permitted by applicable law;
- o Inside private automobiles, provided the only occupants are members of the same household/living unit/residence;
- o Persons obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- o Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;
- o 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;
- o 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
- o Where federal or state safety or health regulations, or a financial institution's policy (based on security concerns), prohibit the wearing of facial coverings;
- o Persons actively engaged in exercise activity so long as physical distancing requirements are maintained;
- o 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;

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 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/prevent-getting-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.

2. **High risk populations.** Elderly 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.** All persons shall maintain a minimum of six (6) feet of physical separation from all other persons to the fullest extent possible. Businesses or operations shall designate lanes for patrons' entry and checkout with appropriate signage, tape, or other means to establish the minimum six (6) foot spacing for customers waiting in line. Checkout operations shall be modified to provide the minimum physical distancing or to provide a shield or barrier separating the interactions between customers and checkout clerks.

Businesses and operations shall monitor and enforce, on their premises, the physical distancing requirements set forth in these rules.

5. **Limited customer occupancy.** Each business and operation shall determine the maximum number of customers that its respective facility may reasonably accommodate while maintaining the specified physical distancing requirements. The business or operation shall post and maintain this maximum number at its primary entrance. The business or operation shall limit and enforce the number of customers in its facility or at its operation to not exceed that maximum number at all times.

It is strongly recommended that a maximum of one (1) customer per one hundred fifteen (115) square feet of retail floor area be allowed into a facility or operation to maintain the minimum physical distancing requirement.

6. **Hand sanitizing products.** Businesses and operations shall provide hand sanitizer or equivalent hand sanitizing products for all employees and customers. All customers/patrons shall sanitize hands before entry. Hand sanitizing stations shall be available at each entrance. Employees handling items from customers, such as cash or credit cards, shall frequently utilize hand sanitizers.
7. **Disinfection.** Businesses and operations shall regularly disinfect all high-touch surfaces. Businesses and operations shall assign, train and schedule employees/staff to sanitize carts, conveyors, counters, handles, knobs, and other high-touch surfaces.
8. **Safeguards for high risk populations.** Businesses and operations are urged to implement processes to safeguard the elderly and any person identified by the CDC that are at increased risk for severe illness from COVID-19. Persons at increased risk are encouraged to stay in their residence to the extent possible, except as necessary to seek medical care.
9. **Online and remote access.** Businesses and operations shall post online whether a facility is open and how best to reach the facility and continue services by phone or remotely. Businesses or operations shall encourage their customers to do their business remotely by phone or online to the extent possible.
10. **Pickup at store or delivery.** Businesses or operations shall provide for, if feasible, online ordering and purchase of goods and customer pickup of orders at a location outside the facility or shall provide for delivery to customer locations.
11. **Signage.** Businesses or operations shall post a sign at the entrance of the facility informing all employees and customers 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.

C. Gatherings

Indoor or outdoor social gatherings of groups up to ten (10) persons are permitted. Face coverings are required and physical distancing of at least six (6) feet between separate groups must be maintained. Members of a single residential or family unit who share the same address are not restricted.

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.

D. Travel to the County of Hawai'i

Pursuant to the 16th Emergency Proclamation, all persons traveling to Hawai'i Island are subject to the State of Hawai'i's mandatory 14 day self-quarantine unless an exemption or modification applies. The period of self-quarantine shall begin from the date of entry onto Hawai'i Island and shall last 14 days or the duration of the person's presence on the island, whichever is shorter.

1. Transpacific Travelers

- **Pre-test with negative results:** Persons availing themselves to the State's negative test exception to the mandatory self-quarantine requirement must, prior to departure to Hawai'i Island, upload into the State's Safe Travels Program their negative COVID-19 test result from a Trusted Testing Partner test administered to the traveler within 72 hours from the final leg of departure or provide a written hard copy confirmation upon arrival in the State.

Persons who arrive without uploading their test results into the State's Safe Travels Program or without written hard copy confirmation of a negative COVID-19 test result will be subject to the 14 day self-quarantine.

From 25%-100% of those persons availing themselves to the State's negative test exception must take a second COVID-19 test ("arrival test") upon arrival to Hawai'i island to be administered at a County-designated facility near the airport. The County shall determine the method, manner, and actual number of persons randomly selected for the arrival test and the cost of the arrival test will be borne by the County.

While awaiting the results of the "arrival test", the traveler **is not** required to quarantine. Travelers whose arrival test are positive or inconclusive for COVID-19 will be referred to the State Department of Health Hawai'i District Office for further handling.

- **Exemption/Modified Quarantine:** Persons entering the State to perform critical infrastructure functions or who have otherwise been exempted by the Director of Emergency

Management or his designee, shall be subject to self-quarantine but may obtain limited exemption from the State at travel.exemption.hawaii.gov. Only persons who have been granted an exemption through travel.exemption.hawaii.gov may temporarily break self-quarantine and only for the purposes expressed in the written exemption, including any required testing protocols.

- **No pre-test prior to arrival:** Persons **not** availing themselves to the State's negative test exception, and not granted an exemption through travel.exemption.hawaii.gov are subject to the State's mandatory 14 day self-quarantine. There is no option for testing out of the mandatory self-quarantine with a subsequent negative test result.
- **Place of Quarantine:** Persons requiring paid or commercial lodging while subject to the mandatory 14 day self-quarantine, or a portion thereof, shall designate a hotel or motel as their quarantine location. Short-term vacation rentals (STVR), bed and breakfast (B&B) establishments, or other paid or commercial lodging defined by the Hawai'i Revised Statutes as "transient accommodations" shall not be designated as a quarantine location except for:
 - 1) Visiting essential and critical infrastructure workers, provided quarantine restrictions are followed; and
 - 2) Persons meeting the negative test exception under Section IV.B.2 and Exhibit B Section 4(a)(2) of the 16th Emergency Proclamation (pre-test with negative test results on arrival).

An STVR, B&B or other paid or commercial lodging defined by the Hawai'i Revised Statutes as "transient accommodations" may not be designated as a quarantine location for a new or "intended" Hawai'i County resident.

2. Interisland Travelers

- **Exemption/Modified Quarantine:** Inter-island travelers arriving onto Hawai'i Island seeking a modified self-quarantine or exemption from the self-quarantine requirements must receive approval for such modification or exemption from the County of Hawai'i. Requests shall be submitted via the following online format: <https://survey123.arcgis.com/share/e2f4ce19aa854964a8fd60bec7fbc78c>. Only persons who have been granted an exemption may temporarily break self-quarantine and only for the purposes expressed in the written exemption, including any required testing protocols.
- **Medical Exemptions:** Persons who travel outside of Hawai'i Island for medical purposes will not be subject to quarantine upon their return to Hawai'i Island as long as they submit a request to the County via the above online format and provide their flight itinerary, licensed physician letter or certification with the date(s) of appointments that are medically necessary. If the medical traveler requires a travel companion, this person must be named in the doctor's letter or certification. This exemption does not apply if the travel involves any non-medical related purposes.
- **Place of Quarantine:** Persons requiring paid or commercial lodging while subject to the mandatory 14 day self-quarantine shall designate a hotel or motel as their quarantine location. Short-term vacation rentals (STVR), bed and breakfast (B&B) establishments, or other paid or commercial lodging defined by the Hawai'i Revised Statutes as "transient accommodations" shall not be designated as a quarantine location except for visiting essential and critical infrastructure workers, provided quarantine restrictions are followed.
- **Negative test exceptions:**

1. **Pre-test with negative COVID-19 results upon arrival:** Persons five years or older traveling to Hawai‘i County who provide written confirmation of a negative test result from a State approved COVID-19 test administered to the traveler within 72 hours from the last leg of departure prior to arrival into Hawai‘i County are exempt from quarantine. Children under the age of five traveling with parents or guardians who have negative test results are exempt from quarantine.

“State approved COVID-19 test” means a test to determine the presence of active COVID-19 infection that has been approved for use under the Department of Health. Only tests administered by State “Trusted Testing Partners” shall qualify.

2. **Pre-test with no results upon arrival:** Persons who avail themselves to a pre-test but do not have their results upon arrival are subject to quarantine but may submit their negative test result to the State by uploading such verification to www.travel.hawaii.gov.
3. **Post-Arrival test:** Persons subject to the 14 day self-quarantine may arrange for and receive an approved COVID-19 test while in mandatory self-quarantine. Those persons who provide written confirmation of a negative test result from an approved COVID-19 test will be removed from quarantine. Negative test results must be submitted to the State by uploading such verification to www.travel.hawaii.gov.

Interisland travelers shall bear all costs related to their interisland pre-travel and post arrival testing.

E. 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. Barber Shops and Beauty Operators
- Exhibit 4. Places of Worship

Exhibit 5. Businesses, Operations and Activities to Remain Closed

- F. Pursuant to Hawai‘i Revised Statutes Section 127A-29, any person violating this Rule shall be guilty of a misdemeanor, and upon conviction, fined not more than \$5,000 or imprisoned for not more than one year, or both.
- G. This rule shall take effect immediately and shall continue through December 31, 2020 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 25 day of November 2020 in Hilo, Hawai‘i.

Harry Kim
Mayor
County of Hawai‘i

CONCURRENCE:
Governor David Y. Ige

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