

Retail and service businesses

Effective May 15, 2020, retail businesses (clothing stores, electronic stores, toy stores, photography studios, phone repair, car washes, etc.) may open and people may frequent them subject to the requirements and conditions set forth in the Order (Exhibit A). Among the requirements is the setting of maximum occupancy for the facility (if business is conducted within a facility). Maximum occupancy for retail and service businesses is generally calculated by taking the total area open to customers (in square feet) and dividing it by 200. E.g., a facility that has 2,000 square feet of space open to the public, the maximum total capacity is 10 (employees and customers combined). However, for businesses with very limited square footage, they may allow up to one customer within the business at a time, as long as six-feet of physical distancing between individuals can be maintained. (Updated 06/15/2020)

Restaurants and Bars

Restaurants were allowed to reopen on June 5, 2020 with certain requirements and conditions. Bars will be allowed to reopen on June 19, 2020. “Bar” means an establishment that is primarily engaged in the serving of alcoholic beverages for consumption by guests on the premises regardless of whether food is served, including but not limited to taverns, cocktail lounges, karaoke rooms/areas, cabarets, and including outdoor areas of such establishments. For purposes of the Order, a business that was primarily engaged in the serving of alcoholic beverages for consumption by guests on the premises may pivot to operate as a restaurant. However, at a minimum, the business must have the food permit required for the food being served. To gauge whether the business is no longer a “bar” that is “primarily engaged in the serving of alcoholic beverages” the business should evaluate whether 30% or more of the business’s revenue is expected to come from food sales.

The reopening of restaurants includes a prohibition on “indoor live entertainment,” which should be interpreted as prohibiting singing, playing of wind instruments, and other similar activities that increase the presence and propulsion of respiratory droplets in the air. Also, with respect to the Pilot Sidewalk/outdoor dining privilege, “[n]o live or amplified music is allowed on the utilized City property.”

Consistent with the restaurant prohibition as interpreted above, bars prohibit singing. Although not specifically stated in the Order, bars should also ensure there is no playing of wind instruments and other similar activities that increase the presence and propulsion of respiratory droplets in the air. (06/15/2020)

Education and care facilities

Starting on June 19, 2020, private education, adult care, and special needs care facilities (“Education/Care Facilities”) may operate under certain conditions and requirements. State-regulated education and care facilities are not included, but may reopen, as allowed by the relevant State department. For example, child care is regulated by the State Hawaii, Department of Human Services, and therefore, any COVID-19 related guidelines from that department should be followed (see e.g., <https://humanservices.hawaii.gov/child-care-resources/>). (06/15/2020)