

individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.

- i. Any entity not identified above may operate but may not exceed 50% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

Yellow Level – Yellow Level counties are subject to the following requirements:

- (1) Except as provided in the following paragraph, all “mass gatherings” of more than ten (10) individuals are prohibited. “Mass gatherings” in which individuals gather in vehicles are permitted so long as the gathering is limited to eighty (80) vehicles, no food or drinks are sold at the gathering, and all individuals remain in their vehicles.
- (2) All businesses, houses of worship, and other non-profit entities may operate subject to the following occupancy limits and restrictions:
 - a. All “essential businesses,” excluding those defined as a “retail space,” may operate but must limit operations to only those absolutely necessary to carry out essential functions.
 - b. “Essential businesses” identified as a “retail space” may operate but may not exceed 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.
 - c. “Houses of worship” may hold religious services, indoors or outdoors, or provide services through audiovisual means, but may not exceed 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department.
 - d. “Large entertainment venues” may operate up to 25% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the venue except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion. Notwithstanding the foregoing, “large entertainment venues” may operate up to 25% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department, for the limited purposes of recording and broadcasting entertainment, but shall in no event permit any live, in-person audience.
 - e. “Recreational facilities” may operate up to 33% capacity of any outdoor space on the premises but shall not permit patrons to enter any indoor portion of the facility except for the limited purpose of using the restroom or momentarily exiting/entering. Employees may occupy the indoor portion of the facility only to the extent necessary to operate the outdoor portion.
 - f. “Bars and clubs” may not operate.
 - g. “Food and drink establishments” may not provide dine-in service unless they complete the NM Safe Certified training offered at <https://nmsafecertified.org>, as well as comply with all NM Safe Certified requirements, including, but not limited to: screening customers and staff

for symptoms of COVID-19 prior to entry, consenting to Department of Health spot-testing of symptomatic employees, requiring dine-in customers to provide limited contact information for contact tracing purposes, and retaining contact tracing information for no less than three weeks. Those “food and drink establishments” that complete the NM Safe Certified training and comply with all attendant requirements mandated by that program may provide dine-in services but may not exceed more than 33% of the maximum occupancy of any enclosed space on the premises, as determined by the relevant fire marshal or fire department. All “food and drink establishments,” regardless of compliance with the NM Safe Certified requirements, may provide service in outdoor seating areas up to 75% occupancy, where applicable. In all instances, tables must be spaced at least six feet apart, no more than six patrons may be seated at any single table, patrons must be seated in order to be served food or drink unless ordering food for carryout, and no bar or counter seating is permitted. Any “food and drink establishment” that is permitted to serve alcohol must close for in-person service by 10:00 p.m. and must remain closed until at least 4:00 a.m. but may continue to provide delivery service so long as no customers are permitted on the premises. “Food and drink establishments” may provide carryout service, or delivery service if otherwise permitted by law.

- h. “Places of lodging” which have completed the NM Safe Certified training offered at <https://nmsafecertified.org> may operate up to 60% of maximum occupancy. All other “places of lodging” shall not operate at more than 33% of maximum occupancy. Further, and notwithstanding any other provision herein, any home, apartment, condominium, or other similar space that is offered as a vacation rental may operate but may not exceed five (5) guests. Healthcare providers who are engaged in the provision of care to New Mexico residents, individuals for extended stays as temporary housing, and individuals who are quarantining shall not be counted for purposes of determining maximum occupancy.
- i. “Close-contact businesses” may operate but may not exceed the lesser of 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department, or twenty (20) customers inside the building at any given time.
- j. Any entity not identified above may operate but may not exceed 33% of the maximum occupancy of any outdoor or enclosed space on the premises, as determined by the relevant fire marshal or fire department.

Red Level – Red Level counties are subject to the following requirements:

- (1) Except as provided in the following paragraph, all “mass gatherings” of more than five (5) individuals are prohibited. “Mass gatherings” in which individuals gather in vehicles are permitted so long as the gathering is limited to forty (40) vehicles, no food or drinks are sold at the gathering, and all individuals remain in their vehicles.