

Document Code No.: ACO-8-26-1-PR

Title: Required Protective Measures Against COVID-19 in Food Establishments

Effective Date: Immediately upon filing with ARMMS

Authorities: RCW 70.05.070; King County Board of Health Code (BOH) 5.02.030, 5.60.020, 5.60.040 and Chapter 1.08; and K.C.C. 2.98.070.

Keywords: COVID-19, emergency rule, food establishment

Sponsoring Agency: Seattle-King County Department of Public Health



King County

A handwritten signature in black ink that reads "Betty Hays". The signature is written in a cursive, flowing style.

Signature:

Date signed: December 7, 2020

I. Purpose

This rule provides emergency authority and guidance for compliance with and enforcement of orders of the Governor and the Washington State Secretary of Health to prevent the spread of COVID-19. The purpose of this emergency rule is to prevent the spread of COVID-19 in food establishments, particularly restaurants and bars.

Applicability and Audience This rule applies to food establishments, including restaurants and bars, throughout King County, including within incorporated cities and unincorporated areas, and to the public.

II. Definitions

As used in this rule, the following definitions apply unless the context clearly indicates otherwise:

- A. "Director" means the Director of the Seattle-King County Department of Public Health.
- B. "Food establishment" means "food establishment" as defined under WAC 246-215-01115.

III. Findings and Emergency Rule

A. Findings

1. The Director finds that King County is currently experiencing a significant increase in confirmed COVID-19 cases. Epidemiological research and investigation by the State of Washington Department of Health, and the Seattle-King County Department of Public Health (also known as Public Health – Seattle & King County, or "Public Health"), including contact tracing, indicates that this increase is caused in part by persons gathering in public places, including restaurants, bars, and taverns, without wearing face coverings, without observing social distancing of 6 feet or more, or without taking other required protective health and sanitation measures, enumerated in Governor Inslee's Safe Start Washington Phased Reopening Plan, and Restaurant and Tavern Requirements, Governor Inslee's Proclamations 20-25.6, 20-25.7, and 20-25.8, and Orders of the Secretary of Health 20-03 and 20-03.1 on face coverings (hereinafter collectively referred to as "COVID-19 safeguards").
2. The Director finds that despite the issuance of the COVID-19 safeguards by the Governor and the Secretary of Health, COVID-19 infections and related hospitalizations in King County have continued rising since approximately mid-September 2020, with transmission and the number of people infected reaching all-time highs since the beginning of November 2020, and hospitalizations increasing by seventy percent during the week preceding

November 15, 2020, placing the public at even greater risk and further burdening our health care system.

3. The Director finds that the highest risk of COVID-19 transmission comes within indoor spaces where people gather, including food establishments, especially when facial coverings are not used. Food establishments present potentially higher risk of transmission as guests need to remove face coverings in order to eat or drink.
4. The Director finds that the COVID-19 restrictions and requirements for restaurants and bars are important and necessary to reduce risk for employees, customers, and communities to slow the spread of COVID-19.
5. The Director finds that the failure to comply with the COVID-19 safeguards identified above constitutes an actual health hazard. The Director finds that it is necessary to enforce the above COVID-19 safeguards for any food establishments which fail to comply, through the Director's existing, established authority under law to impose civil penalties, suspend operating permits, or pursue other remedies authorized by King County Board of Health Code 5.02.030 and 1.08. King County Board of Health Code 5.60.020(a) also authorizes the Director and his/her/their authorized representatives to suspend a food establishment's operating permit if continued operation of the food establishment constitutes an actual health hazard. The Director is further authorized, under BOH 1.08.190 and 5.60.040, to revoke a food establishment's operating permit for interference with the Director in the performance of the Director's duties.
6. The Director further finds that immediate enforcement of the above COVID-19 safeguards is necessary to prevent the spread of COVID-19 in King County and for the preservation of public health, safety, and general welfare. Observance of the rule-making notice and comment process of KCC 2.98.060 would be contrary to the public interest. Time is of the essence.

B. Emergency Rule

The Director hereby adopts and incorporates the COVID-19 safeguards -- Governor Inslee's Safe Start Washington Phased Reopening Plan, and Restaurant and Tavern Requirements, Governor Inslee's Proclamations 20-25.6, 20-25.7, and 20-25.8, and the Orders of the Secretary of Health 20-03 and 20-03.1 -- into the rules of the department, Public Health – Seattle & King County. The Director and his/her/their representatives are hereby authorized to inspect food establishments for compliance with the COVID-19 safeguards.

Enforcement shall begin by providing the food establishment with an opportunity to remedy the violation, except that immediate suspension may be implemented when deemed necessary to correct an imminent or actual health hazard. The Director and his/her/their representatives are authorized to enforce non-compliance through the imposition of civil penalties, suspension of operating permits, or other remedies authorized by the Board of Health Code.

IV. Implementation Plan

A. Inspection, education, permit suspension, reinstatement, other agency assistance, public disclosure

1. The Director or his/her/their representative will conduct inspections of food establishment pertaining to the COVID-19 safeguards periodically and in response to complaints. Non-compliance will be assessed either virtually or in person. Upon determining that the food establishment is violating the COVID-19 safeguards, the Director's representatives will provide education and guidance to the food establishment, to help it come into compliance, unless immediate permit suspension is necessary to respond to an imminent or actual health hazard.
2. Where immediate permit suspension is not necessary on an initial inspection, the Director's representatives may again determine, by follow-up visit or other consultation, whether the food establishment is in compliance. If the food establishment remains non-compliant with COVID-19 safeguards, the food establishment's permit will be suspended, and the establishment required to immediately cease operation. The food establishment will be provided with the necessary steps that it must take in order to comply with the COVID-19 safeguards, regain its permit and reopen.
3. If an immediate permit suspension was imposed, the food establishment shall be responsible for reaching out to Public Health to address potential reopening.
4. All food establishments with a suspended permit will be required to submit corrective actions and meet with the Director's representative to discuss such actions before they are allowed to schedule a reopening inspection.
5. The Director's representatives may also request the assistance of the local police, Washington State Patrol, King County Sheriff, and all other officers and employees of any political subdivision within King County to enforce this emergency order.
6. The names of food establishments with permit suspensions will be disclosed on the Agency's website and emailed to the public.
7. Implementation of this rule will be carried out with attention to King County's equity and social justice principles and strategies.

B. Effective Date

This rule becomes effective for the Seattle-King County Department of Public Health immediately upon filing for a period of 150 days. The Seattle-King County Department of Public Health is responsible for implementation of this emergency rule.

V. Maintenance

- A. This rule will be maintained by the Seattle-King County Department of Public Health or its successor agency.
- B. This rule will automatically expire on May 6, 2021. A new, revised, or renewed rule may be initiated by the Seattle-King County Department of Public Health or its successor agency prior to the expiration date if deemed necessary for the preservation of public health, safety, and general welfare.

VI. Consequences for Noncompliance

Noncompliance with this rule may subject the violator to permit suspension, civil penalties, or other remedies authorized under King County Board of Health Code 5.02.030, 5.60.030, and Chapter 1.08; and/or referral to the State of Washington Department of Health, Department of Labor and Industries, and/or Washington State Liquor and Cannabis Board for investigation and enforcement under RCW 43.06.220(5).