

Regulation 2020-7

COVID-19 RESTAURANT OCCUPANCY LIMITATION AND EARLY CLOSURE REGULATION

WHEREAS, on March 11, 2020, the novel Coronavirus 2019 Disease (COVID-19) was declared a global pandemic by the World Health Organization; and

WHEREAS, as of November 15, 2020, Knox County was defined as a county in the Red Zone by the White House Coronavirus Task Force, meeting the requirements of “counties during the last week reported both new cases of 10 to 100 per 100,000 population, and a diagnostic test positivity result between 5% and 10%,” further stating “Current mitigation efforts are inadequate and must be increased to flatten the curve to sustain the health system for both COVID and non-COVID emergencies”; and

WHEREAS, as of November 18, 2020, Knox County new case rate and percent positivity are all above the Board of Health adopted metrics for escalation; and

WHEREAS, as of November 18, 2020, three of the five of the Knox County Health Department Benchmarks are rated as red and the remaining two are rated as yellow, indicating a worsening situation; and

WHEREAS, according to the Morbidity and Mortality Weekly Report (MMWR), published by the Centers for Disease Control and Prevention, Vol. 69, No. 36, published September 11, 2020, 63% of COVID positive individuals versus 44% of COVID negative individuals had eaten in a bar or restaurant in the two weeks prior to becoming ill; and

WHEREAS, according to the MMWR Vol. 69, No. 40 published October 9, 2020, mitigation efforts such as limiting restaurant capacity and closure of bars and restaurants helped slow COVID new case growth in Arizona; and

WHEREAS, pursuant to Knox County Code § 38-33(a), the Knox County Board of Health has all of the powers and duties as required and provided for by state law; and

WHEREAS, pursuant to T.C.A. § 68-2-601(f), the powers and duties of the Knox County Board of Health include adopting rules and regulations as may be necessary or appropriate to protect the general health and safety of the citizens of Knox County and governing the policies of the Knox County Health Department; and

WHEREAS, pursuant to T.C.A. § 68-2-603(b) and Knox County Code § 38-32(f), the Knox County Health Director, as head of the Knox County Health Department, shall act in concert with, and meet all applicable policies established by, the Knox County Board of Health; and

WHEREAS, pursuant to T.C.A. § 68-2-609, the Knox County Health Officer is empowered to order (1) the quarantine of any place or person, if the county health officer finds that the quarantine is necessary to protect the public from an epidemic, (2) the closure of any public establishment, facility or building if the county health officer finds unsanitary conditions of such a nature and extent to

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significantly threaten the public health, or (3) the closure of any public establishment, facility or building, if the county health officer is otherwise authorized by law to take that action; and

WHEREAS, by Opinion No. 20-07 issued on April 27, 2020, the Attorney General of Tennessee confirmed that "local health officers confronted with an epidemic [have] the power—*indeed, the obligation*—to "[e]stablish appropriate control measures which may include examination, treatment, isolation, quarantine, exclusion, disinfection, immunization, disease surveillance, closure of establishment, education, and other measures considered appropriate by medical experts for the protection of the public's health'" (quoting Tenn. Comp. R. & Regs. 1200-14-01-.15) (emphasis added); and

WHEREAS, pursuant to Executive Order No. 38 issued by the Governor of Tennessee on May 22, 2020, the Knox County Health Department has the authority to issue additional orders or measures related to the containment or management of the spread of COVID-19, which may permit to a greater degree, or restrict to a greater degree, the opening, closure, or operation of businesses, organizations, or venues or the gathering of persons in Knox County, except with respect to certain subjects; and

WHEREAS, as of November 25, 2020, the foregoing authority remains in effect pursuant to Executive Order No. 67 issued by the Governor of Tennessee on October 30, 2020; and

WHEREAS, the Knox County Board of Health finds it necessary and appropriate to limit the spread of COVID-19 in order to protect the general health and safety of the citizens of Knox County during the COVID-19 pandemic; and

WHEREAS, Knox Countians are encouraged to continue to engage in the healthy and essential activities of daily life, including supporting local businesses and their employees while adhering to the health and safety measures set forth in this Order, so that we will safeguard to the greatest extent possible the economic well-being of so many Knox Countians whose lives and work have been disrupted by the COVID-19 outbreak and ensure that Knox County is best positioned to recover following this outbreak; and

NOW, THEREFORE, the Knox County Board of Health, by virtue of the power and authority vested in it, to protect the general health and safety of the citizens of Knox County, does hereby declare that a continuing public health emergency exists in Knox County, Tennessee, due to the COVID-19 pandemic, and in accordance with the recommendations in the White House Coronavirus Taskforce Report and the guidance from the CDC, to limit the spread of COVID-19 adopts the following regulation:

1. This Regulation should be cited as the "COVID-19 Restaurant Occupancy Limitation and Early Closure Regulation."
2. The words, terms, and phrases used in this Regulation shall have the same meanings ascribed to them in Paragraph 3 of the COVID-19 Face Covering Regulation, Knox County Board

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of Health Regulation No. 2020-1 (adopted July 1, 2020), as well as those ascribed additional definition in Paragraph No. 3 of Knox County Board of Health Regulation No. 2020-5, Curfew Regarding the Sale or Consumption of Alcoholic Beverages in Certain Establishments.

- a. All restaurants, bars, and similar food and drink establishments including night clubs will limit capacity to 50% of occupancy based on Tennessee's Building and Fire Code and keep at least six feet between parties not from the same household. Seating will be limited to eight (8) people per table unless they are from the same household.
 - b. All restaurants, bars, and similar food or drink establishments, including nightclubs, shall close for on-premises consumption and activities at 10:00 p.m. EST, and not permit the on-premises consumption and activities to resume until 5:00 a.m. the following day that they are open for business. They may remain open after 10:00 p.m. only to offer drive through, pickup, carry-out, or delivery service for food or drink, and persons are highly encouraged to use such drive-through, pickup, carry-out, or delivery options to support such businesses during this emergency.
 - c. Paragraphs 2.a. and 2.b. shall apply equally to the outdoor areas, land, property, and/or facilities of all restaurants, bars, and similar food or drink establishments, including nightclubs.
 - d. "Activities" shall not be construed to include the work of employees, contracted personnel, or owners of the restaurant, bar, or establishment who are at that time within the course and scope of their employment or contract, performing their normal job functions, such as cleaning the establishment, preparing food, etc.
3. Paragraph 2 of this Regulation shall not apply to any of the following:
- a. Nursing homes, retirement homes, long-term care facilities, or assisted-living facilities;
 - b. Places of worship; and
 - c. Places owned, leased, or managed by the government of the United States, the government of the State of Tennessee, or any branch of Knox County, City of Knoxville, or Town of Farragut governments or the Knoxville-Knox County Public Building Authority.
4. This Regulation shall not be construed to prohibit offering food and drink for off-premises consumption through such means as in-house delivery, third-party delivery, and walk-up, drive-up, drive-through, curbside pick-up, and carry-out services, provided that such deliveries and services are offered consistent with applicable law.
5. A person who owns, manages, operates, or otherwise controls any restaurant, bar or similar food and drink establishment including night clubs in Knox County, and who knowingly fails to comply with any provision of this Regulation, may be subject to such orders and/or

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penalties as are provided by law, including, but not limited to, the penalty provided in T.C.A. 5 68-2-602 and/or the revocation, suspension, or imposition of conditions on licenses or permits as provided in T.C.A. 5 68-2-608 and/or T.C.A. 5 68-2-609.

6. The Knox County Health Director may issue orders, request injunctions, and seek any other remedy available at law or equity to require compliance with this Regulation as provided in T.C.A. S 68-2-608 and, as Knox County Health Officer, as provided in T.C.A. 5 68-2-609.

7. The Knox County Board of Health requests and authorizes all officers, including constitutional and charter officers, boards, commissions, departments, offices, and agencies of Knox County government, the City of Knoxville, and the Town of Farragut to cooperate with, aid, consult with, advise, and coordinate with the Knox County Board of Health, the Knox County Health Director, and the Knox County Health Department in furthering the intent of, enforcing, explaining, and clarifying this Regulation.

8. Consistent with Executive Order No. 38 issued by the Governor of Tennessee on May 22, 2020 ("Order"), as most recently extended by Executive Order No. 67 issued by the Governor of Tennessee on October 30, 2020, this Regulation shall not be construed as regulating the provision of medical, dental, or oral procedures; places of worship; or nursing homes, retirement homes, long-term care facilities, or assisted-living facilities. This Regulation does not alter, limit, or abridge the Order's requirement that persons who test positive for COVID-19 or who are suffering from COVID-19 symptoms shall stay at home, except to receive medical care, until satisfying the conditions set forth by the Centers for Disease Control and Prevention (CDC) for discontinuing home isolation. This Regulation does not alter, limit, or abridge the Order's requirement that an employer, through its supervisors or appropriate management personnel, shall not require or allow an employee who the employer knows has tested positive for COVID-19 to report to work until that employee has satisfied the conditions for discontinuing home isolation under CDC guidelines.

9. The intent of this Regulation is to close restaurants, bars and similar food and drink establishments including night clubs within Knox County after 10:00 p.m. daily to indoor and outdoor consumption in order to protect the general health and safety of the citizens of Knox County during the COVID-19 pandemic. This Regulation shall be liberally construed so as to further this intent, and all provisions of this Regulation shall be interpreted to effectuate this intent.

10. If any provision of this Regulation or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Regulation are declared to be severable.

11. This regulation replaces Regulation 2020-5, which is hereby abrogated by this Regulation upon its adoption.

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12. This Order shall be effective and enforceable at 12:01 a.m., Eastern Standard Time, on November 25, 2020, and shall remain in effect until 12:01 a.m., Eastern Standard Time, on December 23, 2020.


ADOPTED this day of November 25, 2020.

KNOX COUNTY BOARD OF HEALTH



Jack Gotcher, DMD, PhD/Chair 11/24/2020
Date

ATTEST:



Martha Buchanan, MD/Secretary 11-24-2020
Date